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APPENDIX VI.

[*Vide* item (2) presentation of reports on page 45 supra.]

REPORT OF THE SELECT COMMITTEE ON THE MADRAS CO-OPERATIVE SOCIETIES BILL, 1961 (L.A. BILL No. 22 OF 1961).

To

THE HON. THE LEGISLATIVE ASSEMBLY,
Madras.

1. The Select Committee appointed to consider the Madras Co-operative Societies Bill, 1961 (L.A. Bill No. 22 of 1961), has the honour to make the following report.

2. The Bill was published in English in Part IV—Section 3 of the *Fort St. George Gazette* Extraordinary, dated 28th March 1961, and in Tamil in the *Fort St. George Gazette* on the 19th April 1961.

3. The Committee was appointed on the 30th March 1961. It met in the Lounge Room, Fort St. George, on the 30th March 1961 and in the Committee Room, Legislators' Hostel, Madras, from the 27th to 30th June 1961, from 1st to 3rd July 1961, on the 4th and 5th August 1961 and on 11th August 1961.

4. At its first meeting on the 30th March 1961, the Committee decided to invite ten Members of the Legislative Council to be associated with the Select Committee.

5. The Committee also decided—

(*a*) to call for written memoranda from individuals and associations interested in the Bill;

(*b*) to record the views of the representatives of special types of societies; and

(*c*) to visit some typical farming societies.

6. The Committee visited between 10th and 12th May 1961, the Joint Farming Co-operative Societies at Nathagoundanpudur and Kalappanaickanpalayam in Coimbatore district and the Tenant Farming Society at Tengumarahada in the Nilgiris district.

7. The Committee also recorded the evidence of the representatives of societies and individuals interested in the Bill on the 27th and 28th June 1961.

At its meetings held on the 29th, 30th June and 1st to 3rd July 1961, the Committee considered the Bill clause by clause.

8. At its meeting held on the 3rd July 1961, the Committee appointed a Sub-Committee to consider the Bill as redrafted in the light of the discussions at the earlier sittings of the Select Committee and to put the clauses in proper legal phraseology according to the decisions arrived at.

The Sub-committee met on the 19th and 21st July 1961 and considered the Bill as redrafted by the Law Department. The Report of the Sub-committee was circulated to the members on

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the 24th July 1961. The Committee considered the Bill as approved by the Sub-committee on the 4th, 5th and 11th August 1961 and also approved the Report.

9. The Committee has subjected the clauses of the Bill to a detailed scrutiny and as a result of such scrutiny has made various changes in them. Some of the important changes which the Committee has made are mentioned below :—

PREAMBLE.—The Preamble in the Bill as introduced did not set forth the aims and objectives of the co-operative movement. It has now been suitably enlarged to cover all aspects of the co-operative movement.

Clause 2.—This clause deals with definitions. The Committee considered it not necessary to define the words 'company' as this term does not occur anywhere in the Bill. The definition has accordingly been deleted.

The Committee also considered that instead of defining the various classes of societies in the statute, power might be given to the Registrar to classify them in consonance with the objects of the societies and their area of operation and other criteria prescribed. The Committee has accordingly deleted the definitions of 'distributing society', 'farming society', marketing society' and 'service society'.

The Committee considered that it would be better to provide for definition of the term 'nominal or associate member' under this clause rather than in the present place in which it had been defined in sub-clause (3) (*b*) of clause 17 of the Bill as introduced. A new definition has accordingly been added.

The definition of 'tribunal' has also been suitably modified to be in consonance with the amendments to clause 95 dealing with the constitution of co-operative tribunals.

Original clause 5.—The original clause 5 contained an unqualified prohibition against the admission of a firm or a company into a co-operative society. As such a prohibition might hamper the growth of industrial co-operatives and consumer societies, the clause has been deleted. Under the new clause 17 (1) (*d*), a company or a firm, *inter alia*, may be admitted to the membership of a registered society with the approval of the Government.

Clause 5.—The original clause 6 gave a member or creditor the option to withdraw his shares, deposits or loans as the case may be, within one month of the service of the notice in writing intimating the change of liability of the society. The Committee considered that the time-limit of one month might not be sufficient, and has accordingly changed it to two months.

Cluase 8.—This was originally clause 9. Sub-clause (2) has been amended to make it more explicit that the persons applying for registration shall be qualified and are not subject to any disqualification.

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Clause 9.—The original clause 10 provided that no order refusing registration shall be passed unless the society had been given an opportunity to make representations against the order of refusal. The Committee decided to drop this proviso as the society, as such, does not come into existence before registration. In the revised clause 9, provision has been made for communicating the order of refusal to any applicant nominated for the purpose. Appeal against the order is provided for in the revised clause 96 (2) (*a*).

Clause 11.—This was originally clause 12. The Committee felt that where any amendment of the by-laws proposed by a society involved, in the opinion of the Registrar, a material change in the objects or operations of the society, the amendment should be registered only subject to such rules as might be laid down. The Committee has accordingly added a new sub-clause.

Clause 12.—The original clause 13 gave power to the Registrar to direct any society to adopt amendments suggested by him where he considered it necessary to do so. The Committee, has amended the clause empowering the Registrar to direct amendment of by-laws only for the purposes of altering the area of operation or improving the services rendered by a society or for any other purpose as might be specified in the rules.

Clause 13.—According to the original clause 14, whether it was the division of a registered society into two or more societies or the amalgamation of two or more societies into one society, it was provided that after the expiry of one month from the date of receipt of the preliminary resolution by all the members and creditors of the society, or societies, as the case may be, a meeting of the general body of the society which wants to divide itself or a joint meeting of the members of the amalgamating societies should be called for after giving the specified period of notice, for the purpose of obtaining the confirmation of the preliminary resolution and the new by-laws. The Committee felt that in the case of a dispute arising, it would be very difficult to prove the fact of receipt of the preliminary resolution by every member. The Committee has therefore amended it so that the general body of the dividing society or the joint meeting of the members of the amalgamating societies might be called for two months after the despatch of the preliminary resolution to the parties concerned. It has also been provided that the Registrar shall register the new societies or society, as the case may be, on receipt of a copy of the confirmed resolution certified in the manner to be prescribed.

Clause 14.—This was originally clause 15. In sub-clause (3), the Committee has made an amendment similar to that in clause 13, namely, that the meeting of the general body of each of the societies which desire to transfer among themselves a part or the whole of their liabilities and assets, shall be called two months after the date of despatch of the preliminary resolution after giving the prescribed period of notice, for considering the preliminary resolution.

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Clause 15.—This is a new clause which the Committee has added to give effect to its decision that the Registrar shall have power to classify the registered societies with reference to their objects, area of operations, membership or any other matter to be specified in the rules.

Clause 16.—The clause as it originally stood prescribed in detail the procedure by which a registered society could convert itself by an amendment of its by-laws into a society of a class different from the one to which it belonged. The Committee has substituted for this lengthy clause a simple provision which would enable a registered society to convert itself into a registered society of a different class by passing a resolution to that effect leaving the conditions subject to which such a resolution could be passed to be prescribed in the rules. The amended clause also gives power to the Registrar to direct a society to take action under this clause, if in the opinion of the Registrar, any amendment of the by-laws proposed by a society would be such as to convert it into a different class of society.

Clause 17.—This clause deals with the qualifications for membership of a registered society. The Committee decided that the clause should be amended so as to provide for the following, namely, (1) local bodies and Joint Stock Companies or partnership firms and any other body should be enabled to become members of certain types of societies subject to prior approval of the Government being obtained, (2) a Hindu undivided family as such shall not be eligible for admission as a member of a registered society and (3) that in certain types of societies, members shall be admitted on application, but the Committee shall have the power to remove any of the members with the approval of the Registrar. The clause has been amended accordingly.

Clause 18.—This clause deals with the disqualifications for membership of a registered society. Sub-clause (1) (*d*) provided that a member who has been expelled from membership under the provisions of the Co-operative Societies Act shall not be eligible for membership for a period of two years. The Committee decided to reduce this period to one year and also decided to delete the proviso to this sub-cluase empowering the Registrar to sanction the readmission within this period of any such member. The sub-clause has been amended accordingly.

Item (*c*) of sub-clause (1) and item (*c*) of sub-clause (2) provide that a member who becomes a paid employee of the society or of its financing bank or of any registered society for which it is the financing bank shall incur a disqualification. However, it will be necessary for a member to be a paid employee in societies formed for employment of its members. The clause provides for this generally.

Clause 19.—This clause provides for an appeal to the Registrar for redress by a member who has been refused any service by a registered society. The Committee felt that the Regirstrar need and may interfere only if any member has been

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discriminated against or if the refusal was improper or unreasonable. The clause has been amended to this effect, and provides also for the Committee of the registered society to be given an opportunity for making its representation, before the Registrar passes the order.

Clause 20.—This clause provides for the expulsion of a member for the reasons stated therein upon a resolution being passed to that effect at a special meeting convened for the purpose and two-thirds of the total number of the members of the society voting for it. The Committee felt that it might not be possible in practice to comply with the above requirement. The Committee has, therefore, amended it so as to make it sufficient if two-thirds of the total number of members present had voted for the resolution. The Committee has also made it obligatory for such a resolution to be approved by the Registrar before it became effective.

Clause 21.—This clause deals with the votes of members. In the clause, as it stood originally, it was provided in conformity with the existing pattern of legislation that the Chairman should have and exercise a second or casting vote. The Committee felt that several problems arising from the exercise of a casting vote by the Chairman would be eliminated if the practice of international bodies not to consider a question as adopted in the case of an equality of votes, was adopted in this case also. The Committee has accordingly amended sub-clause (1) to the effect that a question shall be deemed not to have been decided in case there was an equality of votes. The Committee has also added two new provisos to sub-clause (1), namely, that nominal or an associate member shall not be entitled to vote and that a member who is a minor or of unsound mind shall not be entitled to vote except in the manner provided for in the by-laws.

Clause 22.—This clause has been amended to make it specific that an agent who is authorized by a member to look into the member's transactions should also be a member of the society.

Clause 23.—The Committee has amended this clause and incorporated the provision in the existing Act for a transfer of a member's share or interest to the society.

Clause 24.—This clause deals with the transfer of interest on death of a member and, as it stood originally, any nominee, heir or legal representative may require the society to pay to him the value of the share or interest of the deceased member. The Committee has so amended the clause as to enable a society to secure the shares or interest of the deceased member as it is necessary to do so in the case of certain classes of societies.

Clause 25.—This clause deals with the liability of a past member. The Committee has incorporated the provision in the existing Act that where the Government or a financing bank

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had taken shares in a registered society, their liability would cease from the date on which the Government or the financing bank ceased to be a member.

Clause 26.—This clause deals with general body meetings.

Sub-clause (1) as it originally stood dealt with the exercise by a smaller general body, where the by-laws provided for it, such powers of the general body as might be prescribed in the by-laws of the society. It also empowered the Registrar to direct a registered society to constitute a smaller body to represent the general body subject to such conditions as might be prescribed. Sub-clause (2) laid down that the general body meeting of a registered society shall be held once a year for the purposes mentioned in the sub-clause.

The Committee considered that the smaller general body might be called the 'representative general body' and that the conditions in which such a representative general body should be constituted, namely, the unwieldy area of operations of a registered society or the large volume of membership which made it impossible in actual practice for a general body meeting to be convened, should be incorporated in the clause itself. The Committee also considered that the representative general body should be elected in accordance with the rules to be prescribed and that it should exercise all or any of the powers of the general body subject to such restrictions and conditions as might be prescribed or as might be specified in the by-laws, provided that the representative general body shall not have the power to alter any provision in the by-laws relating to its own constitution or powers.

It has also been provided that where a representative general body has been constituted, any reference in the Act to the General Body or its meeting shall be taken as referring to the Representative General Body or its meeting respectively.

If at a special general body meeting either convened by the Committee or by the Registrar there was no quorum, the Committee considered that, on the analogy of the provisions of the Companies Act, it should be provided that if no quorum was again present on the adjourned date, the members present at that meeting should constitute the quorum.

Clause 27.—This clause deals with the appointment of committees, and the term of office of the members elected to them. Sub-clause (1) has been amended so that the general body of a registered society shall constituted a committee. A new proviso has been added to sub-clause (1) incorporating the provision in the existing Act to enable the persons who have signed the application to register a society, to appoint a committee to manage the affairs of the society for a period of three months from the date of registration pending the appointment of a committee duly constituted according to the by-laws.

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The Committee has amended sub-clause (2) to the effect that the Government or a financing bank which has taken shares or given assistance to a society might nominate to the committee of the society such number of persons not exceeding three or one-third of the total number of members of the committee, whichever was less.

As regards sub-clause (3) which delimits the term of office, the Committee felt that there should be a certain amount of continuity and that on the analogy of the provisions in the Companies Act, the committee should be a permanent body with a third of the members retiring at fixed intervals. Accordingly, the sub-clause has been amended fixing the term of office of a member as three years, with one-third of the members retiring each year. Suitable provision has also been made regarding casual vacancies.

Sub-clauses (4) and (6) of the original clause 27 have been deleted, and sub-clause (5) regarding election by ballot of committee members has been renumbered as sub-clause (4).

Clause 28.—This clause deals with the disqualifications for membership of committee and restriction of the number of societies on the committees of which a person could be a member. The entire clause has been amended as explained below :—

Sub-clause (1) (*a*).—The degree of near relationship of a paid employee to a member of the committee has been left to be prescribed in the rules.

Sub-clause (1) (*b*).—This relates to the disqualification incurred by a member who is in default to the society. A proviso has been added to this sub-clause to debar a person who has ceased to hold office for default to the society from standing for re-election to the committee of the society of which he was a member and also from standing for election to the committee of any other registered society.

Sub-clause (1) (*c*).—Members of societies like Marketing and Consumers' Societies would come within the purview of this disqualification. A proviso has been added to make this disqualification inapplicable to such class of contracts, sales, purchases or transactions as may be prescribed.

Sub-clause (1) (*d*).—This is a new disqualification which was not incorporated in the clause in the Bill as introduced. It is a modification of a disqualification listed in the rules issued under the existing Act of 1932 which should find a place in the statute itself. This disqualification attaches to a person who is employed as a legal practitioner on behalf of the registered society or against the registered society or on behalf or against any other registered society which is a member of the former registered society.

Sub-clause (1) (*e*).—Same as the existing sub-clause (1) (*d*), namely, the disqualification of an associate or nominal member.

Sub-clause (1) (*g*).—This disqualification for three years attaches to a person who has been sentenced for any offence under the Co-operative Societies Act not having been reversed. A proviso has however been added under sub-clause (2) (*a*) that if a person while holding office incurs this disqualification gets his sentence annulled on appeal, he would be restored for such portion of the period of his term of office as remains unexpired.

Sub-clause (2).—A new sub-clause (c) has been added disqualifying a person who purchases directly or indirectly any property of another member brought to sale for recovery of any money due from such other member to the society. This forms part of the rules issued under the existing Act of 1932 which should form part of the statute itself.

Sub-clause (3) of clause 28 of the Bill as introduced provided that a member of the committee of a registred society shall not be eligible for re-election for a period of two years after the expiry of his term of office. Sub-clause (4) as it stood originally laid down that a member of the committee who has held office for three or more terms successively immediately before the commencement of the Act shall not be eligible for re-election for a further term immediately on the expiry of the term of office held by him. The Committee decided that such restrictions were not necessary and those provisions have been deleted.

Sub-clause (3).—This clause as redrafted gives effect to the decison of the committee that no person shall, at the same time, be a member of the committees of more than five registered societies subject to the further condition that he shall not also, at the same time, be on the committees of more than two apex societies or two central societies.

Sub-clause (4).—This corresponds to sub-clause (6) of clause 28 of the Bill as introduced. The committee has reduced the period of disqualification to three years.

Sub-clause (5).—This corresponds to sub-clause (7) of the original clause, which provided that even a member of a committee to which only a notice of supersession issued should also be ineligible for re-election for a period of six years. The committee has amended the clause to the effect that no member of a committee to which such a notice had been issued should be eligible for election or appointment to the committee till the conclusion of the supersession proceedings. The committee has also reduced the period of disqualification to three years in the case of a member of a committee which had been superseded.

Clause 33.—A new sub-clause (vi) has been added to the effect that any declaration made under clause (1) which has not been registered shall be null and void. This is on the analogy of a similar amendment made in clause 79.

Clause 40.—The clause as it stood originally provided for the recovery of the entire gross salary of a person in response to requisitions from one or more societies. The committee has

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amended the clause so that no employer or officer disbursing the salary or wages shall recover from the salary or wages a sum in excess of one half of the entire gross salary or wages for the month. Failure to deduct the dues of co-operative societies by any employer or the officer disbursing the salary or wages has also been made punishable with a fine which may extend to five hundred rupees but this penal provision will not apply to the Government or any officer of the Government.

The committee however felt that this limit of 50 per cent might have to be enhanced in the case of consumers' co-operatives and has therefore provided that this limit would not apply to such classes of societies as might be prescribed.

Clause 43.—This clause has been amended to provide for exemption from stamp duty any instrument executed in favour of a registered society also.

Clause 45.—The original clause provided for purchase of shares by Government in registered societies with limited liability. The committee has removed this restriction as in any case the liability of the Government under clause 4 (2) is limited to the share capital subscribed by them.

Clause 56.—This clause deals with the different forms of State aid to registered societies and guarantees. A new sub-clause (*e*) has been added to guarantee the repayment of deposits received by a registered society and payment of interest on such deposits and the existing sub-clause (e) has been renumbered as (f).

Clause 61.—The expression "net profits as declared by the Registrar" occurring in clauses 61 and 62 has been qualified by the addition of the words "for the purpose of this Act" to make it clear that the term "net profit" used in this Act does not have the same meaning as in the Income-tax Act.

Clause 62.—The original clause provided for an order of priority only for contribution to the Reserve Fund, Co-operative Education Fund and other Funds to be prescribed in the Rules. No *inter se* order of priority was laid down for other purposes, viz., payment of dividend, bonus and contribution to other funds created by the by-laws.

The clause has now been amended providing a fixed order of priority for the various items of contribution from the net profits. Payment of dividend to members and of bonus to members and employees has been given a higher priority than contribution to the Co-operative Education Fund, the rate of latter also being reduced from a maximum of 5 per cent to 2 per cent. The priority for contribution to Common Good Fund has been lowered but the rate increased from a maximum of 7½ per cent to 10 per cent.

Clause 65.—This clause deals with the powers conferred on the Registrar or the person authorized by him when he is holding an inquiry under this clause. Original sub-clause (2) (c) only

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authorized him to summon any person who had knowledge of the affairs of a society and examine such person on oath. The sub-clause has been amended to empower the Registrar or other person authorized by him to summon the person whom he proposes to examine, to produce any records or documents in his possession which might be relevant.

Clause 69.—This clause corresponds to clause 66—' Supervision' of the Bill as introduced. To bring out the correct intention this has been redrafted to provide that the Government may recover the cost of the special or additional staff appointed for the purposes of any society.

Clause 70.—This deals with the suspension of an officer or a servant of a society. The clause has been amended to make it clear that only the paid officer of a registered society can be directed to be suspended by the Registrar if there is a *prima facie* case against such paid officer.

Clause 72.—The word "wilfully" has been added before the word " disobeys " and also before the words "fails to comply with any lawful orders ".

Clause 73.—This clause deals with the nature of disputes that shall be referred to the Registrar. The committee has added a proviso to sub-clause (1) to the effect that no dispute relating to, or in connection with, any election to a committee shall be referred to the Registrar till the date of the declaration of the result of such election.

Sub-clause (3) has been amended to enable the Registrar to transfer disputes from one subordinate officer to another or from one arbitrator to another or to transfer or withdraw it to himself and deal with it.

Clauses 74 *to* 84.—These clauses correspond to clauses 74 to 81 of the Bill as introduced in the Chapter entitled " Farming Societies ". As the provisions in this chapter applied only to Joint Farming Societies, the title of the Chapter itself has been amended and clause 74 has also been suitably amended.

The committee has deleted clause 75 as it stood originally and has substituted in its place a new clause defining the terms " Competent authority ", " Joint Farming Society ", " person interested" and " works ".

Clause 77 deals with the creation of charge in favour of joint farming society by a member. This has been amended to specifically declare as null and void any transaction in contravention of the condition that no land in respect of which a charge has been created shall be sold or otherwise transferred without the previous written permission of the joint farming society.

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Clause 79 deals with the vesting of lands in a Joint Farming Society and registration of agreement. The Committee has amended the clause to the effect that unless the agreement was registered in tthe manner prescribed it would be null and void.

Clause 80 as it originally stood has been split up into two clauses, one prohibiting the withdrawal of the lands pooled in a joint farming society before the expiry of the period agreed upon (revised clause 80) and another (revised clause 81) which prescribes the methods of disposal of pooled lands, after the expiry of the agreement. It has been provided that, if a person wanted to leave the joint farming society after the expiry of the period of agreement, the society could purchase his lands or exchange it for other lands of equal value belonging to the society. The conditions under which the Government could acquire such lands on behalf of the society, if it was necessary to do so, and the procedure to be followed for such acquisition have also been specified. The Committee has also added necessary provisions to give the right of pre-emption to the previous owner of such acquired land if the joint farming society proposed to sell or otherwise transfer such land or portion thereof or it became necessary to do so in the event of the liquidation of the joint farming society.

Clause 82, which is analogous to the provisions in the Madras Requisitioning and Acquisition of Immovable Property Act, 1956 (Madras Act XLII of 1956), prescribes the quantum of compensation payable for such acquired lands and provides for the appointment of a judicial officer not below the rank of Subordinate Judge as arbitrator in the event of a dispute. The compensation payable has been fixed as the price which the lands would have fetched in the open market if they had been sold on the date of acquisition, after deducting the value of the works constructed on such lands by the Joint Farming Society, or, twice the price which the lands would have fetched if they had been sold on the date on which they were pooled, whichever is less. Provision has also been made to compensate the person for any expenses on account of vacating the lands and for any other items of expenditure which might be relevant.

Clause 84 corresponds to clause 81 of the Bill as introduced which provided that the Government might acquire such land as might be necessary for the purpose of improving or facilitating joint farming operations. The Committee has put a limit that the lands so acquired should not exceed ten per cent of the total extent of the lands pooled by the members of the joint farming society and has also added a proviso that no land should be acquired under this clause unless the purpose for which the land is acquired is such as specified under the rules.

Clause 85.—This clause deals with the winding up of registered societies (original clause 82). Sub-clause (1) has been amended so as to give the society a reasonable opportunity of making its representations before an order directing it to be wound up is issued.

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Clause 87.—This clause has been amended to make it clear that the power of the liquidator shall be exercised subject to the control of the Registrar. It has also been provided that the liquidator can enter into any compromise or arrangement with the creditors only with the previous approval of the prescribed authority.

Clause 91.—This clause deals with the powers of the Registrar to recover certain sums by attachment and sale of property (original clause 88). Sub-clause (*a*) has been amended so as to empower the Registrar to recover sums due to a registered society also under decree or an order of a civil court.

Clause 95.—This clause relates to the appointment of a Co-operative Tribunal or Tribunals (original clause 92). The original clause provided for the appointment of one tribunal only and it also provided that the tribunal shall make its own regulations. The committee has amended this clause to give power to the Government to constitute one or more tribunals as might be required from time to time, and also power to frame rules for regulating the procedure and disposal of business by the tribunal.

Clause 96.—Clause 96 as revised deals with appeals and the provisions of the original clauses, 93, 94 and 95 have been combined into a single clause.

The main changes are : (i) the Tribunal has no jurisdiction over any matter relating to or in connection with the constitution of a Committee including any election thereto or with reference to any order of transfer, reference or withdrawal of a dispute ordered by the Registrar, (ii) only appeals against the orders of the State Registrar shall lie to Government, the other appeals from the Subordinate officers being heard by the State Registrar and (iii) the provision that execution of the order of the Registrar, the Tribunal and the State Government shall be through the civil court has been deleted and instead power has been taken in clause 99 to prescribe the procedure for execution, adopting the current practice.

Clause 97.—Original clauses 96 and 97, which dealt with the power of the Registrar, to call for proceedings of Subordinate Officers and the power of Government, to call for proceedings of the Registrar and pass orders thereon have been combined into one single clause.

Clause 99.—This clause provides that any order passed in appeal, revision or review shall be enforced by such authority and in such manner as may be prescribed.

Clauses 110 *and* 111.—The original clause 108 which dealt with the power to exempt a registered society from certain provisions has been split into two clauses, 110 dealing with exemption to self-reliant societies and 111 dealing with power to exempt other registered societies.

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The committee felt that self-reliant societies should get some exemptions in the statute itself and decided that they should be exempted from the provisions of clause 19—Right of members to services by registered society and application for redress, the second proviso to sub-clause (1) of clause 27 regarding nomination of members of the committee by the Government or the Registrar and sub-clause (2) of the same clause regarding nomination by Government or financing bank. These exemptions shall be conditional on the self-reliant societies complying with such terms as may be specified in the special or general order. Necessary provision has been made in clause 110. In clause 111 provision has been made to exempt a registered society from any of the provisions of the Bill.

Clause 113.—This is a new clause under which Government have taken power to authorise by notification any authority or officer to exercise any of the powers vested in them except the power to make rules. Government have also been empowered to control and review the acts or proceedings of any officer so empowered.

Clause 116.—This clause restores section 61 of the existing Act which specifically states that the provisions of the Companies Act, 1956 (Central Act I of 1956) shall not apply to registered societies.

Clause 119.—This clause corresponds to clause 113 of the Bill as introduced which deals with the delegation of power to the Government to make rules and it has been suitably amplified to make it comprehensive consistent with the several changes indicated above.

10. All the changes made by the Select Committee are indicated in the annexed Bill and the clauses have been renumbered wherever necessary.

11. The Committee decided that the changes made in the Bill were very important and that it should be republished. The Committee also decided to request the Deputy Speaker to order the publication and circulation of the Report, under rule 241-A of the Madras Legislative Assembly Rules, before presenting it to the House.

12. Dissenting minutes given by some members are appended.

FORT ST. GEORGE, MADRAS,
11th August 1961.

R. VENKATARAMAN,
Chairman.

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Appendix.

THE MADRAS CO-OPERATIVE SOCIETIES BILL, 1961 (L. A. BILL No. 22 of 1961).

(As amended by the Select Committee),

ARRANGEMENTS OF CLAUSES.

CLAUSES.

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THE MADRAS CO-OPERATIVE SOCIETIES BILL, 1961 (AS AMENDED BY THE SELECT COMMITTEE).

L.A. Bill No. 22 *of* 1961.

[NOTE.—*The changes made are sidelined or underlined and the portions omitted are indicated by asterisks.*]

A Bill to amend and consolidate the law relating to, and to make better provision for the organisation of, co-operative societies in the State of Madras.

WHEREAS it is expedient further to facilitate the formation and working of co-operative societies for the promotion of thrift, self-help and mutual aid among persons with common economic needs so as to bring about improvement in agriculture and industry, better methods of production, better business and better living and for that purpose to amend and consolidate the law relating to co-operative societies in the State of Madras;

BE it enacted in the Twelfth Year of the Republic of India as follows :—

CHAPTER I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called the Madras Co-operative Societies Act, 1961.

(2) It extends to the whole of the State of Madras.

(3)) It shall come into force on such date as the Government may, by notification, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires—

(1) " by-laws " means the registered by-laws for the time being in force and includes a registered amendment of the by-laws;

(2) " committee " means the governing body of a registered society to whom the management of its affairs is entrusted;

* * * *

(3) "co-operative year " means the period commencing on the first day of July of any year and ending with the 30th day of June of the succeeeding year or, in the case of any registered society or class of registered societies, the accounts of which are made up to any other date with the previous sanction of the Registrar, the year ending with such date;

* * * * *

(4) " financing bank " means a registered society which has as its principal object the lending of money to other registered societies;

(5) " Government " means the State Government;

* * * * *

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(6) " member " means a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with this Act, the rules and the by-laws and includes a nominal and an associate member;

(7) " nominal or associate member " means a member who possesses only such privileges and rights of a member and who is subject only to such liabilities of a member as may be specified in the by-laws;

(8) " officer " includes a president, vice-president, chairman, vice-chairman, secretary, assistant secretary, treasurer, member of committee, and any other person empowered under the rules or the by-laws to give directions in regard to the business of the society;

(9) " registered society " means a society registered or deemed to be registered under this Act;

(10) " Registrar " means a person appointed to performs the duties of a Registrar of Co-operative Societies under this Act, and includes a person on whom all or any of the powers of a Registrar under this Act have been conferred under section 3;

(11) " rules " means rules made under this Act;

(12) " self-reliant society " means a registered society which does not receive assistance in any form from the Government under Chapter VI or from any registered society receiving such assistance from the Government.

Explanation.—A cash credit with a financing bank for the maintenance of fluid resources shall not be regarded as assistance under this clause, notwithstanding that the financing bank receives assistance from the Government;

* * * * *

(13) " society with limited liability " means a registered society the liability of whose members for the debts of the society on its liquidation is limited by its by-laws;

(14) " Society with unlimited liability " means a registered society, whose members are on its liquidation, jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the society;

(15) " supervising union " means a registered society which has as its principal object the organising, assisting, developing and supervising of registered societies which are its members or the carrying on of propaganda or the spread of education in co-operative principles and practices;

(16) " Tribunal " means a Tribunal constituted under section 95 and having jurisdiction.

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CHAPTER II.

Registration.

3. *The Registrar.*—The Government may appoint a person to be Registrar of Co-operative Societies for the State of Madras or any portion of it and may, by general or special order, confer on any other persons all or any of the powers of a Registrar under this Act.

4. *Societies which may be registered.*—(1) Subject to the provisions of this Act, a society which has as its object the promotion of the economic interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act with limited or unlimited liability :

Provided that the liability of a society of which a registered society is a member shall be limited.

(2) Whether the liability of the members of a registered society is unlimited or limited by shares, the liability of the Government or of a financing bank, which have or has taken shares in such registered society, shall be limited to the share capital subscribed by the Government or such financing bank.

* * * *

5. *Change of liability.*—(1) Subject to the proviso to sub-section (1) of section 4 and to any rules made in this behalf, a registered society may, by an amendment of its by-laws, change its liability from limited to unlimited or from unlimited to limited :

Provided that—

(i) the society shall give notice in writing of its intention to change its liability to all its members and creditors;

(ii) any member or creditor, who does not exercise his by-laws or contract to the contrary, have the option of withdrawing shares, deposits or loans, as the case may be, within two months of the service of such notice on him and the change shall not take effect until all such claims have been satified; and

(iii) any member or creditor, who does not exercise his option within the period aforesaid, shall be deemed to have assented to the change.

(2) Notwithstanding anything contained in the proviso to sub-section (1), the change shall take effect at once if all the members and creditors assent thereto.

6. *Conditions of registration.*—(1) No society, other than a society of which a member is a registered society, shall be registered under this Act which does not consist of at least ten persons and where the object of the society is the creation of funds to be lent to its members, unless such persons—

(*a*) reside or own immovable property in the same town or village or in the same group of villages;

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(b) save where the Registrar otherwise directs are members of the same class or occupation.

(2) The word "limited" shall be the last word in the name of every society with limited liability registered under this Act.

7. *Power of Registrar to decide certain questions.*—When any question arises whether for the purposes of this Act any person is an agriculturist or a non-agriculturist or whether any person is a resident of, or owns immovable property in, a town or village or group of villages, or whether two or more villages shall be considered to form a group , or whether any person belongs to any particular class or occupation, the question shall be decided by the Registrar.

8. *Application for registration.*—(1) An application for registration shall be made to the Registrar.

(2) The application shall be signed—

(a) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of sub-section (1) of section (6) and sub-section (1) of section 17, and who are not disqualified for admission as members under sub-section (1) of section 18; and

(b) in the case of a society of which a member is a registered society, by a duly authorized person on behalf of every such registered society, and where all the members of the society are not registered societies, by ten other members or, when there are less than ten other members by all of them.

(3) The application shall be accompanied by a copy of the proposed by-laws of the society and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

9. *Registration.*—(1) If the Registrar is satisfied that the application for the registration of a society is in accordance with the provisions of this Act and the rules and that the proposed by-laws are not contrary to this Act or the rules or to co-operative principles and that the society will, in his opinion, work successfully, he may register the society and its by-laws.

* * * * *

(2) If the Registrar refuses to register a society and its by-laws, he shall communicate the order of refusal with the reasons for the refusal to any person who has signed the application for the registration of the society and who has been nominated in this behalf by the persons who have signed that application.

10. *Evidence of Registration.*—A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled.

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11. *Amendment of the by-laws of registered society.*—(1) No amendment of the by-laws of the registered society shall be valid until the same has been registered under this Act.

(2) An application for the registration of an amendment of the by-laws of a registered society shall be made to the Registrar in the prescribed manner and shall be accompanied by a copy of the amendment of the by-laws.

(3) If the Registrar is satisfied that an amendment of the by-laws is not contrary to this Act or the rules, he may register the amendment :

Provided that no order refusing to register the amendment of the by-laws shall be passed except after giving the registered society an opportunity of making its representations.

(4) If the Registrar refuses to register an amendment of the by-laws of a registered society, he shall communicate the order of refusal to the registered society with the reasons for the refusal.

(5) When the Registrar registers an amendment of the by-laws, he shall issue to the registered society a copy of the amendment of the by-laws certified by him, which shall be conclusive evidence that the same is duly registered.

(6) An amendment of the by-laws of a registered society shall take effect from the date, if any, specified in the amendment. Where no such date is specified, the amendment shall take effect from the date on which it is registered.

(7) Without prejudice to the provisions of this section, where any amendment of the by-laws proposed by a society involves in the opinion of the Registrar, a material change in the objects or operations of the society, the amendment shall be registered only subject to such rules as may be made in this behalf.

12. *Power to direct amendment of by-laws.*—(1) Where the Registrar is satisfied that for the purpose of altering the area of operations of a registered society or for the purpose of improving the services rendered by it or for any other purpose specified in the rules, an amendment of the by-laws is necessary, he may, after consulting in the manner prescribed the financing bank, if any, to which the society is affiliated, by notice in writing, call upon the society to show cause, within such time as may be specified in the notice, why the amendment should not be made.

(2) If, within the time specified in the notice referred to in sub-section (1), the registered society fails to make the amendment, the Registrar may, after giving the society an opportunity of making its representations, register the amendment and issue to the society a copy of such amendment.

(3) Any amendment of the by-laws registered under sub-section (2) shall have the same effect as an amendment of the by-laws registered under section 11 unless the registration is cancelled in pursuance of a decision in appeal.

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13. *Division and amalgamation of societies.*—(1) (*a*) Any registered society may, at a meeting of its general body specially called for the purpose of which at least seven clear days' notice shall be given to its members, resolve to divide itself into two or more societies. The said resolution (hereinafter in this sub-section referred to as the preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide it and may prescribe the area of operations of, and specify the members who will constitute each of the new societies. The proposed by-laws of the new societies shall be annexed to the preliminary resolution.

(b) (i) A copy of the preliminary resolution shall be sent to all the members and creditors of the society.

(ii) Any members of the society may, notwithstanding any by-law to the contrary, by notice given to the society within a period of one month from the date of receipt by him of the preliminary resolution, intimate his intention not to become a member of any of the societies.

(iii) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the period referred to in sub-clause (ii), intimate his intention to demand a return of the amount due to him.

(*c*) After the expiry of two months from the date of despatch of the preliminary resolution to all the members and creditors of the society, a meeting of the general body of the society of which at least fifteen clear days' notice shall be given to its members, shall be convened for considering the preliminary resolution and the proposed by-laws. If, at such meeting, the preliminary resolution and the proposed by-laws of the new societies are confirmed by a resolution passed by a majority of not less than two-thirds of the members present and voting, either without changes or with such changes as, in the opinion of the Registrar, are not material, he may, subject to the provisions of clause (*e*) and section 9, but not withstanding anything contained in section 8 and on receipt of a copy of such resolution certified in the manner prescribed register the new societies and the by-laws thereof. On such registration, the registration of the original society shall be demand to have been cancelled.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are, or are not, material shall be final.

(*d*) At the meeting referred to in clause (*c*) provision shall be made by another resolution for—

(i) The repayment of the share capital of all the members who have given notice under sub-clause (ii) of clause (*b*); and

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(ii) the satisfaction of the claims of all the creditors who have given notice under sub-clause (iii) of clause (b):

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in clause (c).

(e) If the Registrar is satisfied that provision for the repayment of the share capital of all the members and for the satisfaction of the claims of all the creditors referred to in clause (d) has not been made, he may refuse to register the new societies.

(f) The registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution as confirmed under clause (c).

(2) (a) Two or more registered societies may, at meetings of their respective general bodies specially called for the purpose of which at least seven clear days' notice shall be given to their respective members, resolve to amalgamate into one society. The said resolution is hereinafter in this sub-section referred to as the preliminary resolution. The proposed by-laws of the amalgamated society shall be annexed to the preliminary resolution.

(b) (i) A copy of the preliminary resolution of each society shall be sent to all the members and creditors thereof.

(ii) Any member of any such society may, notwithstanding any by-law to the contrary by notice given to the society of which he is a member within a period of one month, from the date of receipt by him of the preliminary resolution, intimate his intention not to become a member of the amalgamated society.

(iii) Any creditor of any such society, may notwithstanding any agreement to the contrary, by notice given to the society of which he is a creditor within the period refererd to in sub-clause (ii), intimate his intention to demand a return of the amount due to him.

(c) After the expiry of the two months from the date of despatch of the preliminary resolution to all the members and creditors of all the societies, a joint meeting of the members of such societies of which at least fifteen clear days' notice shall be given to them, shall be convened for considering the preliminary resolution and the proposed by-laws. If, at such meeting, the preliminary resolution and the proposed by-laws are confirmed by a resolution passed by a majority of not less than two-thirds of the members present and voting, either without changes or with such changes as, in the opinion of the Registrar, are not material, he may, subject to the provisions of clause (f) and section 9, but notwithstanding anything contained in section 8, and on receipt of a copy of such resolution certified in the manner prescribed

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register the amalgamated society and the by-laws thereof. On such registration, the registration of the original societies shall be deemed to have been cancelled.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are, or are not, material shall be final.

(d) At the joint meeting referred to in clause (c) provision shall be made by another resolution for—

(i) the repayment of the share capital of all the members who have given notice under sub-clause (ii) of clause (b): and

(ii) the satisfaction of the claims of all the creditors who have given notice under sub-clause (iii) of clause (b):

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in clause (c).

(e) The person by whom a joint meeting referred to in clauses (c) shall be convened, the procedure to be followed thereat and the quorum therefor shall be such as may be prescribed.

(f) If the Registrar is satisfied that provision for the repayment of the share capital of all the members and for the satisfaction of the claims of all the creditors referred to in clause (d) has not been made, he may refuse to register the amalgamated society.

(g) The registration of the amalgamated society shall be a sufficient conveyance to vest in it all the assets and liabilities of the original societies.

14. *Transfer of assets and liabilities among registered societies.*—(1) Two or more registered societies may, at meetings of their respective general bodies specially called for the purpose of which at least seven clear days' notice shall be given to their respective members, resolve to effect in whole or in part a transfer among themselves of their respective assets and liabilities. The said resolution is hereinafter in this section referred to as the preliminary resolution.

(2) (a) A copy of the preliminary resolution of each society shall be sent to all its members and creditors.

(b) Any member of any such society may, notwithstanding any by-law to the contrary, by notice given to the society of which he is a member within a period of one month from the date of receipt by him of the preliminary resolution, intimate his intention to withdraw his share capital from the society.

(c) Any creditor of any such society may, notwithstanding any agreement to the contrary by notice given to the society of which he is a creditor within the period referred to in clause (b), intimate his intention to demand a return of the amount due to him.

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(3) After the expiry of two months from the date of despatch of the preliminary resolution to all the members and creditors of all the societies, meeting of the general body of each society of which at least fifteen clear days' notice shall be given to its members, shall be convened for considering the preliminary resolution. If, at such meeting the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present and voting, either without changes or with such changes as, in the opinion of the Registrar, are not material, he may, on receipt of a copy of such resolution certified in the manner prescribed, accord is approval for the transfer of the assets and liabilities among the societies.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are, or are not, material shall be final.

(4) At the meeting referred to in sub-section (3), provision shall be made by another resolution for—

(*a*) the repayment of the share capital of all the members who have given notice under clause (*b*) of sub-section (2); and

(*b*) the satisfaction of the claims of all the creditors who have given notice under clause (*c*) of sub-section (2):

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in sub-section (3).

(5) (*a*) If the Registrar is satisfied that provision for the repayment of the share capital of all the members and for the satisfaction of the claims of all the creditors referred to in sub-section (4) has not been made, he may refuse to accord his approval for the transfer of the assets and liabilities among the societies.

(*b*) Any transfer of the assets and liabilities of the societies under this section without the approval of the Registrar under the sub-section (3) shall be null and void.

(6) The confirmation the preliminary resolution under sub-section (3) shall, on approval by the Registrar, be a sufficient conveyance to vest in the societies concerned the assets and liabilities transferred under this section.

15. *Classification.*—The Registrar shall, in accordance with the rules made in this behalf, classify registered societies with reference to their objects, area of operations, membership or any other matter specified in the rules

16. *Conversion.*—Any registered society may, in accordance with the rules made in this behalf and subject to such conditions as may be specified in the rules, resolve to convert itself into a registered society of a class different from the one to which it belongs.

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Provided that where any amendment of the by-laws proposed by a society is in the opinion of the Registrar such as to convert the society into a society of a class different from the one to which it belongs, the Registrar may direct the society to take action under this section.

CHAPTER III.

QUALIFICATIONS OF MEMBERS AND THEIR RIGHTS AND LIABILITIES.

17. *Qualifications for membership of society.*—(1) Subject to the provisions of section 18—

(*a*) any individual competent to contract under section 11 of the Indian Contract Act 1872 (Central Act IX of 1872),

(*b*) any other registered society,

(*c*) the Government, and

(*d*) any body of persons whether incorporated or not and whether or not established by or under any law, if such body is approved by the Government in this behalf by general or special order,

* * *

shall be eligible for admission as a member of a registerod society :

Provided that a Hindu undivided family as such shall not be eligible for admission as a member of a registered socioty :

Provided further that persons who are minors or of unsound mind may be admitted as members of such class of registered societies as may be prescribed and such members shall possess only such privileges and rights of members and be subject only to such liabilities of members as may be prescribed.

(2) (*a*) In the case of such class of registered societies as may be prescribed, every person qualified for membership of any such society shall, on application made in the form, if any, prescribed for the purpose, be admitted by the committee as a member of the registered society of that class :

Provided that any member admitted under this clause may with the approval of the Registrar, be removed from membership by the committee; and any application for obtaining such approval shall be made within two months from the date of admission of such member.

(*b*) In the case of any other class of registered societies any person qualified for membership may, on application made in the form, if any, prescribed for the purpose, be admitted as a member of the society by the committee :

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Provided that the committee may, for good and sufficient reason to be recorded in the minutes of the meeting at which the application for admission is considered, refuse admission to any person and the decision of the committee refusing admission shall be communicated to the applicant :

Provided further that if the decision of the committee on the application is not communicated to the applicant within a period of two months from the date of the application, then, the committee shall be deemed to have passed a decision on the date of expiry of such period refusing to admit the applicant and the date of such expiry shall be deemed to be the date of such decision for the purpose of appeal.

(3) No member of a registered society shall exercise the rights of a member unless and until he has made such payment to the society in respect of membership or acquired such interest in the society as may be prescribed by the rules and the by-laws.

* * * *

18. *Disqualifications for membership of society.*—(1) No person shall be eligible for admission as a member of a society, if he—

(*a*) is an applicant to be adjudicated an insolvent or is an undischarged insolvent; or

(*b*) has been sentenced for any offence involving moral turpitude, such sentence not having been reversed and a period of five years has not elapsed from the date of the expiration of the sentence; or

(*c*) is a paid employee of the society or of its financing bank or of any registered society for which it is the financing bank, or

(*d*) has been expelled from membership under this Act and a period of one year has not elapsed from the date of such expulsion.

(2) A member of a registered society shall cease to be a member of the society, if he—

(*a*) applies to be adjudicated, or is adjudicated an insolvent; or

(*b*) is sentenced for any such offence as is described in clause (*b*) of sub-section (1) :

Provided that where a person ceases to be a member under this clause, he shall be restored to membership if and when the sentence is annulled on appeal or revision; or

(*c*) becomes a paid employee of the society or of its financing bank or of any registered society for which it is the financing bank; or

(*d*) is expelled from membership under this Act.

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(3) The provision of clause (*b*) of sub-section (1) and clause (*b*) of sub-section (2) shall not apply to a person seeking admission to, or to a member of, a society exclusively formed for the reclamation of such class of persons as may be prescribed and the provisions of clause (*c*) of, sub-section (1) and clause (*c*) of sub-section (2) shall not apply to a person seeking admission to, or to a member of, a registered society which has as its principal object the provision of employment to its members.

19. *Right of members to services by registered society and application for redress.*—(1) Every member of a registered society shall be entitled to the services available to the members of the registered society under the provisions of its by-laws and such services shall, on application made by him, be rendered to him by the committee.

(2) If any member of any registered society is refused any service, or where the decision of the committee on his application for services is not communicated to him within a period of one month from the date of such application, he may apply to the Registrar for redress.

(3) An application to the Registrar under sub-section (2) shall be made within one month from the date of receipt of the decision of the committee refusing the service where any service is refused or within two months from the date of application to the society where the decision of the committee has not been communicated.

(4) If the Registrar is satisfied that the refusal of any service is unreasonable, improper or discriminatory, he may after giving the committee an opportunity of making its representations, by order, direct the committee to render the service.

(5) Where any service is rendered by the committee in pursuance of an order under sub-section (4) the committee and the member to whom such service is rendered shall have the same rights and be subject to the same liabilities in relation to such service as if no such order has been made.

20. *Expulsion.*—(1) Any member of a registered society who has acted adversely to the interests of the society . . . may be expelled upon a resolution of the general body passed at a special meeting convened for the purpose by the votes of not less than two-thirds of the total number of the members present and voting at the meeting.

(2) No member shall be expolled under sub-section (1) without being given an opportunity of making his representations and until the resolution referred to in that sub-section is approved by the Registrar. A copy of the resolution expelling the member as approved by the Registrar shall be communicated to the member.

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21. *Votes of members.*—(1) (*a*) No member of a registered society shall have more than one vote in the affairs of the society.

(*b*) Every question which may come before a meeting of a registered society or of the committee shall be decided by a majority of the members present and voting at the meeting and in every case of equality of votes, the question shall be deemed not to have been decided :

Provided that—

(*a*) in the case of an equality of votes at an election, the choice shall be by casting lots;

(*b*) the society may by its by-laws restrict the right of a member to vote in any specified matter;

(*c*) where the Government or a financing bank is a member of the society, every person nominated to the committee of the society by the Government or the financing bank as the case may be, shall have one vote;

(*d*) a nominal or an associate member shall not be entitled to vote;

(*e*) save as otherwise provided in the by-laws, a member who is a minor or of unsound mind shall not be entitled to vote.

(2) A registered society which has invested any part of its funds in the shares of another registered society may appoint one of its members not disqualified for such appointment under the rules or the by-laws of such other society to vote in the affairs of such other society.

(3) Save as provided in sub-section (1) or sub-section (2), no member of a registered society shall vote by proxy.

(4) Notwithstanding anything contained in this section, the nominee of the Government or of the financing bank shall not be entitled to vote at elections.

22. *Inspection of accounts by member.*—Any member of a registered society may, at any time during office hours and on payment of such fee as may be prescribed, by himself or by an agent who is a member specially authorized by him in writing, inspect the accounts of the society in so far as they relate to his transactions with it.

23. *Restrictions on transfer of share or interest.*—No transfer by a member of any share held by him or his interest in the capital of a registered society or any part thereof shall be valid unless,—

(*a*) the member has held such share or interest for not less than one year;

(*b*) the transfer is made to the society or to a member of the society; and

(*c*) the transfer is approved by the committee of the society.

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24. *Transfer of interest on death of member.*—(1) Subject to the provisions of section 34, on the death of a member of a registered society, the society shall transfer the share or interest of the deceased member in the capital to th merson nominated in accordance with the rules, or, if no psfom has been so nominated, to such person as may appear tc has committee to be the heir or legal representative of the deceeeem member :

Provided that such nominee, heir or lega lesapresentative, as the case may be being eligible for admission, is admitted as a member of the society :

Provided further that nothing in this sub-section shall prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise the share or interest of a deceased member in the capital of the society.

(2) Notwithstanding anything contained in sub-section (1) and subject to such conditions as may be specified in the rules, a registered society may of its own motion and shall, if so required by any such nominee, heir or legal representative, as the case may be, pay to him the value of the share or interest of the deceased member in the capital ascertained in accordance with the rules.

(3) A registered society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(4) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

25. *Liability of past member or of the estate of a deceased member.*—(1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member of a registered society for the debts of the society as they existed—

(*a*) in the case of a past member, on the date on which he ceased to be a member; and

(*b*) in the case of a deceased member, on the date of his death,

shall continue for the period of two years from such date :

Provided that the liability of the Government or of a financing bank which have or has taken shares in a registered society shall cease on the date on which the Government or the financing bank cease or ceases to be a member.

(2) Where the Registrar has by order in writing under sub-section (1) of section 65 directed a registered society to be wound up, the liability of a past member or of the estate of a

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leceased member who ceased to be a member or died within wo years immediately preceding the date of the order . . . shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of his ceasing to be a member or on the date of his death, as the case may be.

* * *

CHAPTER IV.

Management of registered societies.

26. *General meetings.*—(1) (*a*) Subject to the provisions of this Act, the rules and the by-laws, the ultimate authority of a registered society shall vest in the general body of its members :

Provided that nothing contained in this clause shall affect the exercise by the committee or any officer of a registered society of any power conferred on such committee or such officer by this Act or the rules or the by-laws.

(*b*) Notwithstanding anything contained in clause (*a*) where the area of operations of a registered society is not less than such area as may be prescribed, or where the registered society consists of not less than such number of members as may be prescribed, the registered society may, and if so directed by the Registrar shall, provide by an amendment of its by-laws for the constitution of a smaller body consisting of such number of the members of the registered society as may be prescribed, elected in accordance with the rules (hereinafter referred to as the representative general body) to exercise all or any of the powers of the general body as may be specified in the by-laws and any reference, by whatever form of words in this Act to the general body or a meeting thereof shall, where a representative general body has been constituted under this clause, have effect in respect of the powers exercisable by the representative general body as if such reference were a reference to the representative general body or a meeting thereof, as the case may be :

Provided that the representative general body shall not alter any provision in the by-laws relating to its constitution or powers.

(*c*) The exercise of any power by the representative general body shall be subject to such restrictions and conditions as may be prescribed by the rules or the by-laws.

(2) A general meeting of a registered society shall be held once in a year for the purpose of—

(*a*) approval of the budget for the ensuing year with reference to the programme of the activities of the society prepared by the committee ;

(*b*) election . of the members of the committee ;

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(*c*) consideration of the audit report and the annual report;

(*d*) disposal of the net profits; and

(*e*) consideration of any other matter which may be brought forward in accordance with the by-laws.

(3) (*a*) The committee may, at any time, call a special general meeting of the registered society, and shall call such a meeting within one month of the date of a requisition in that behalf from—

(i) such number of the members or proportion of the total number of members as may be specified in the by-laws . . . . or

(ii) The committee of the supervising union to which the society is affiliated; or

(iii) the committee of the financing bank to which the society is affiliated; or

(iv) any other registered society of such class as may be prescribed for the purpose; or

(v) the Registrar.

(*b*) The requisition referred to in clause (*a*) shall be in writing and shall specify the subjects that shall be placed for consideration at the special general meeting.

(4) (*a*) If the committee refuses or fails to call a meeting in accordance with a requisition under clause (*a*) of sub-section (3), or if, in the opinion of the Registrar, there is no committee or officer competent under this Act or the rules or the by-laws to call a meeting, or if there be a dispute regarding the competence of the committee to function, the Registrar may call the meeting himself.

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(*b*) (i) If, at a special general meeting of the registered society called in pursuance of such requisition or by the Registrar himself under clause (*a*) of this sub-section the quorum is not present, the meeting shall stand adjourned to such other day and at such other time as the committee or the Registrar, as the case may be, may determine.

(ii) If, at the adjourned meeting also, a quorum is not present for holding the meeting, the members present shall be a quorum.

(iii) In respect of any meeting called under clause (*a*) of this sub-section, the Registrar may, notwithstanding anything contained in the by-laws of the society or of the supervising union, determine the period of notice for such meeting, the time and place of the meeting and the subjects to be considered thereat and may preside over such meeting or authorise any person to so preside.

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(5) The Registrar may order that the expenses incurred in calling the special general meeting shall be paid out of the funds of the society or the supervising union or any other registered society at whose instance such meeting was called or by such person as, in the opinion of the Registrar, was responsible for the refusal or failure to call the meeting under sub-section (4).

27. *Appointment of committees.*—(1) The general body of a registered society shall constitute a committee in accordance with the by-laws and entrust the management of the affairs of the registered society to such committee :

Provided that, in the case of a society registered after the commencement of this Act, the persons who have signed the application to register the society may appoint a committee to conduct the affairs of the society for a period of three months from the date of registration or for such further period as the Registrar may consider necessary; but the committee appointed under this proviso shall cease to function as soon as a committee has been constituted in accordance with the by-laws :

Provided further that where the by-laws so provide, the Government or the Registrar may nominate all or any of the members of the committee for such period as may be specified in the by-laws.

(2) Where the Government or a financing bank have or has taken shares in, or given financial or other assistance to a registered society, the Government or the financing bank, as the case may be, . . . may nominate to the committee such number of persons not exceeding three or one-third of the total number of members of the committee, whichever is less, as the Government may determine. The Government or the financing bank may at any time withdraw any person or persons so nominated and fill up the vacancy or vacancies by fresh nomination.

(3) (*a*) The term of office of an elected member of any committee constituted under this Act shall be three years :

Provided that, as nearly as may be, one-third of the members elected to the committee at the first election shall retire at the end of the first year after such election and, as nearly as may be, another one-third of the members elected as aforesaid shall retire at the end of the second year after such election, the members so to retire at the end of the first and second years aforesaid being determined by lot by the committee.

(*b*) The term of office of a member of any committee nominated thereto by the Government, the Registrar or the financing bank, if such members is a non-official, shall be three years.

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(*c*) Notwithstanding anything contained in clause (*a*) but subject to such conditions as may be specified in the rules, the Registrar may, for reasons to be recorded in writing, direct that the term of office of the members of the committee who are to retire under that clause shall extend up to such date as he may fix.

(4) The members of the committee shall be elected by ballot in such manner as may be prescribed :

Provided that any casual vacancy in the office of a member of the committee shall be filled in such manner as may be specified in the rules or the by-laws and a member of the committee filling a casual vacancy shall hold office so long only as the member of the committee whose place he takes would have been entitled to hold office if the vacancy had not occurred.

28. *Disqualifications for membership of committee.*—(1) No person shall be eligible for being elected or appointed as a member of a committee if he—

(*a*) is such near relation as may be prescribed of a paid employee of the registered society; or

(*b*) (i) is in default to the society or to any other registered society in respect of any loan or loans taken by him for such period as is prescribed in the by-laws of the society concerned or in any case for a period exceeding three months :

Provided that a member of the committee who has ceased to hold office as such under this sub-clause shall not be eligible for a period of one year from the date on which he ceased to hold office, for re-election as a member of the committee of the registered society of which he was a member or for election to the committee of any other registered society ; or

(ii) is a person against whom any decree, decision, award or order referred to in section 91 has been obtained; or

(*c*) is interested directly or indirectly in any contract made with the society, or in any sale or purchase made by the society privately or in any auction or in any contract or any transaction of the society (other than investment and borrowing) involving financial interests, if the contract or transaction be subsisting or if the contract, sale, purchase or transaction be not completed :

Provided that this clause shall not apply to such class of contracts, sales, purchases or transactions as may be prescribed; or

(*d*) is employed as legal practitioner on behalf of the registered society or against the registered society or on behalf of or against any other registered society which is a member of the former registered society; or

(*e*) is a nominal or an associate member ; or

(*f*) is a minor or of unsound mind; or

(*g*) has been sentenced for any offence under this Act such sentence not having been reversed and a period of three years has not elapsed from the date of the expiration of the sentence.

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(2) A member of the committee shall cease to hold his office as such if he—

(*a*) becomes subject to any of the disqualifications mentioned in sub-section (1) :

Provided that where a member of the committee ceases to hold his office as such by reason of having been sentenced for any offence under this Act, he shall be restored to office for such portion of the period for which he was elected or appointed as may remain unexpired at the date of such restoration if and when the sentence is annulled on appeal or revision and any person elected or appointed to fill the vacancy in the interim shall on such restoration vacate office ; or

(*b*) ceases to be a member of the registered society; or

(*c*) purchases directly or indirectly any property of another member brought to sale for recovery of any money due from such other member to the society.

(3) (*a*) No person shall, at the same time, be a member of the committees of more than five registered societies.

(*b*) Subject to the provisions of clause (*a*), no person shall, at the same time, be a member of the committees of more than two registered societies which, under the rules, are classified as apex societies or of the committees of more than two registered societies which are classified as aforesaid as central societies.

(*c*) If any person is, on the date of his election or appointment as a member of the committee—

(i) a member of the committees of five registered societies; or

(ii) a member of the committees of two registered societies which are classified in the manner specified in clause (*b*) as apex societies or central societies, and the committee to which he is elected or appointed on that date is the committee of any such apex society or, as the case may be, central society;

then, his election or appointment on the date aforesaid shall be void.

(*d*) (i) If any person is, at the commencement of this Act, a member of the committees of more than five registered societies, then, at the expiration of the period of ninety days from such commencement, he shall cease to be a member of the committees of all such registered societies, unless he has previously resigned his membership of the committees of all but five of those societies.

(ii) If any person is at the commencement of this Act, a member of the committees of more than two registered societies which are classified in the manner specified in clause (*b*) as apex or central societies, then, subject to the provisions of sub-clause (i) and at the expiration of the period specified in that sub-clause he shall cease to be a member of the committees of all such apex

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societies or, as the case may be, central societies, unless he has previously resigned his membership of the committees of all but two of such apex societies, or, as the case may be, central societies.

(e) Nothing in this sub-section shall apply to a member nominated to the committee by the Government or the Registrar.

(4) No member of a committee against whom an order under sub-section (1) of section 71 has been passed, such order not having been set aside, shall be elegible for election or appointment as a member of the committee for a period of three years from the date of such order.

(5) (a) No member of a committee which has been superseded shall be eligible for election or appointment to the committee for a period of three years from the date of expiry of the period of supersession.

(b) No member of a committee in respect of which proceedings for supersession under section 72 are pending shall be eligible for election or appointment to the committee till the termination of those proceedings.

(6) Any question as to whether a member of the committee was or has become subject to any of the disqualifications mentioned in this section, shall be decided by the Registrar.

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CHAPTER V.

Duties and privileges of registered societies.

29. *Address of societies.*—Every registered society shall have an address registered in accordance with the rules, to which all notices and communications may be sent, and shall send to the Registrar notice of every change thereof within thirty days of such change.

30. *Copy of Act, rules and by-laws to be open to inspection.*—Every registered society shall keep a copy of this Act and of the rules governing such society and of its by-laws and a register of its members open to inspection free of charge at all reasonable times at the registered address of the society.

31. *Societies to be bodies corporate.*—The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.

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32. *First charge of society.*—(1) Subject to the prior claim, if any, of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand due to a registered society from any member or past member or the estate of a deceased member shall be a first charge—

(i) upon the crops or other agricultural produce of such member for the raising of which the loan was taken from the registered society by such member; and

(ii) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, supplied or purchased in whole or in part out of the loan of money given by the registered society, or on any articles manufactured from raw materials so supplied, or purchased or on any workshop, godown, or place of business constructed or purchased out of any such loan.

(2) No property or interest in property which is subject to a charge in favour of a registered society under sub-section (1) shall be sold or otherwise transferred or converted in any manner without the previous written permission of the society.

(3) A member or a past member or the nominee, heir or legal representative of a deceased member of a registered society shall, if so required by the society, deposit with, or entrust to the custody of, the society such property as is subject to a charge under sub-section (1) at such place and in such manner as may be prescribed by the rules until the debt or outstanding demand due to the society is fully paid and shall also pay towards all expenses incidental to the removal, transport or maintenance of the property so deposited or entrusted to custody. The charges connected with the removal, transport or maintenance of such property shall be recovered from the member or the past member or the estate of the deceased members, as the case may be, in accordance with such scale as may be prescribed.

(4) Notwithstanding anything contained in any law for the time being in force, any transaction made in contravention of sub-section (2) shall be null and void.

(5) The charge created by sub-section (1) in favour of a registered society shall be available as against any claim of the Government arising from a loan granted under the Land Improvement Loans Act, 1883 (Central Act XIX of 1883), after the grant of the loan by the society.

33. *Charge of immovable property of members borrowing loans from certain registered societies.*—Notwithstanding anything contained in this Act or in any other law for the time being in force—

(i) a member who makes an application for a loan to a registered society of which the majority of the members are agriculturists shall, if he owns land, or other immovable property, make a decla-

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ration in the form prescribed, if any, that he thereby cerates a charge upon such land or other immovable property or such portion thereof as may be specified in the declaration, in respect of the loan which the society may make to the member on the application and future loans, if any, that may be made to him, from time to time, by the society together with interest on such loan or loans;

(ii) a declaration made under clause (i) may be varied or cancelled at any time by the member with the previous written permission of the society in favour of which such charge has been created;

(iii) no land or other immovable property in respect of which a declaration has been made under clause (i) or any part of such land or other immovable property or any interest in such land or other immovable property shall be sold or otherwise transferred until the entire amount of the loan or loans taken by the member from the society together with interest thereon is paid to the society; and any transaction mafde in contravention of this clause shall be null and void;

(iv) the declaration made under clause (i) or any variation or cancellation thereof under clause (ii), shall be sent by registered post by the society to the sub-registrar having jurisdiction over the area in which the land or the other immovable property is situated

(v) on receipt of the declaration or variation or cancellation the sub-registrar shall register such declaration or variation or cancellation and issue a copy thereof to the registered society;

(vi) any declaration made under clause (i) or any variation or cancellation thereof under clause (ii), which has not been registered under clause (v) shall be null and void.

34. *Charge and set off in respect of shares or interest of member.*—A registered society shall have a charge upon the share or interest in the capital and on the deposits of a member or past or deceased member and upon any dividend, bonus or profits payable to a member or a past member or the estate of a deceased member in respect of any debt due from such member or past member or the estate of such deceased member to the society, and may set off any sum credited or payable to a member or past member or deceased member or the estate of a deceased member in or towards payment of any such debt.

35. *Financing bank not to have a claim on certain sums of money.*—No financing bank shall have a charge upon or be entitled to set off towards any debt due from a registered society—

(i) any sum invested by a registered society with it out of the reserve fund; or

(ii) any sum invested with it by such society out of the provident fund established under section 63.

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36. *Shares, interest, etc., not liable to attachment.*—Subject to the provisions of section 34, the share or interest of a member in the capital of a registered society or the amount to the credit of an employee of the society in the provident fund established under section 63, including contributions, if any, made to the fund by the society or any sum invested by the society from out of the provident fund accumulations shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member or employee of the society, as the case may be, and neither the Official Assignee under the Presidency-towns Insolvency Act 1909 (Central Act III of 1909), nor a Receiver under the Provincial Insolvency Act, 1920 (Central Act V of 1920), shall be entitled to or have any claim on such share, interest, amount or sum.

37. *Reserve fund and bad debt reserve not liable to attachment.*—The reserve fund or the bad debt reserve of a registered society invested by such society in accordance with the provisions of section 60 shall not be liable to attachment under any decree or order of a court in respect of any debt or liability incurred by the society.

38. *Register of members.*—Any register or list of members or shares kept by any registered society shall be *prima facie* evidence of any of the following particulars entered therein :—

(*a*) The date on which the name of any person was entered in such register or list as a member; and

(*b*) the date on which any such person ceased to be a member.

39. *Proof of entries in societies' books.*—(1) A copy of any entry in a book of a registered society regularly kept in the course of business shall, if certified in such manner as may be prescribed by the rules, be received in any suit or legal proceeding as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

(2) No officer or liquidator of a registered society and no officer in whose office the books of a registered society are deposited after liquidation shall, in any legal proceeding to which the society or the liquidator is not a party, be compelled to produce any of the society's books the contents of which can be proved under sub-section (1), or to appear as a witness to prove the matters, transactions, and accounts therein recorded, unless by order of the court or the arbitrator made for a special cause.

40. *Deduction from salary or wages.*—(1) A member of a registered society may execute an agreement in favour of that society providing that his employer or the officer disbursing his salary or wages shall be competent, on a requisition in writing from

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the society, to deduct every month from the salary of wages payable to him such amount as may be specified in the requisition towards the amount due by him to the society in respect of any debt or other demand owing by the member to the society from time to time.

(2) (*a*) Where any such agreement as is referred to in sub-section (1) has been executed by a member of a registered society, the employer or the officer disbursing the salary or wages of such member shall, on receipt of a requisition from the society, make the deduction from the salary or wages payable to the member in accordance with the requisition, and pay, within such time as may be specified in the rules in respect of any society or class of societies, the amount so deducted to the society.

(*b*) Where the amount to be deducted in any month in accordance with the requisition made by a society, or where a requisition has been made by two or more societies in respect of the same person, the total amount to be deducted in accordance with all the requisitions, exceeds one-half of his entire gross salary or wages for the month, the employer or the officer disbursing the salary or wages shall deduct from the salary or wages of such person only a sum representating one-half of his entire gross salary or wages for the month. The amount deducted shall, where deductions have been made against requisitions received from two or more societies, be paid by the employer or the officer disbursing the salary or wages to all the societies in proportion to the amounts to be deducted according to their requisitions :

Provided that where any amount is due to such class of registered societies as may be specified in the rules, the entire gross salary of wages for the month or such portion thereof as may be specified in the rules in respect of any such class of societies may be deducted and paid as aforesaid.

(3) The employer or the officer disbursing the salary or wages shall maintain such registers as may be prescribed by the rules.

(4) The provisions of this section shall apply to all such agreements of the nature referred to in sub-section (1) as are in force at the commencement of this Act.

(5) The provisions of this section shall apply notwithstanding any law to the contrary for the time being in force.

(6) If any employer or the officer disbursing the salary or wages of any such member as is referred to in sub-section (1), fails to comply with any of the provisions of this section, he shall be punishable with fine which may extend to five hundred rupees :

Provided that nothing contained in this sub-section shall apply to the Government or any officer of the Government.

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(7) Nothing contained in this section shall apply to establishments under a railway administration operating any railway as defined in clause (20) of Article 366 of the Constitution.

41. *Exemption from compulsory registration of instruments relating to shares and debentures of registered society.*—Nothing in clauses (*b*) and (*c*) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (Central Act XVI of 1908), shall apply to—

(1) any instrument relating to shares in a registered society, notwithstanding that the assets of such society consist in whole or in part of immovable property; or

(2) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title, or interest to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interests therein to trustees upon trust for the benefit of the holders of such debentures; or

(3) any endorsement upon or transfer of any debenture issued by any such society.

42. *Right to set off where a registered society purchases immovable property at a sale under Madras Act II of 1864 for any sum due to it.*—Where, under this Act or any rule made thereunder, any sum due to a registered society from any person is recoverable as an arrear of land revenue and the immovable property of such person is brought to sale under the provisions of the Madras Revenue Recovery Act, 1864 (Madras Act II of 1864), and the society is the purchaser at such sale, the provisions of section 36 of the said Act shall apply thereto as if for the third and fourth clauses thereof the following clauses were substituted, namely :—

"*Third.*—The sum due to the purchaser shall be set off, in whole or in part, against the purchase money and the remainder, if any, of the purchase money shall be paid to the Collector or other officer empowered by the Collector in that behalf within thirty days of the date of sale.

Fourth.—Where the purchaser refuses or omits to complete the payment of the remainder, if any, of the purchase money, the property shall be resold at the expense and hazard of such purchaser and the amount of all loss or expense which may attend such refusal or omission shall be recoverable from such purchaser in the same manner as arrears of public revenue. Where the property, on the second sale, sells for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made".

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43. *Power to exempt from stamp duty and registration fee.*—The Government, by notification, may, in the case of any registered society or class of registered societies, remit—

(*a*) the stamp duty [not being the stamp duty referred to in clause (*a*) of sub-section (2) of section 9 of the Indian Stamp Act, 1899 (Central Act II of 1899)], with which, under any law for the time being in force, instruments executed by or on behalf of or in favour of a registered society or by an officer or member and relating to the business of such society or any class of such instruments or decisions aawrds or orders of the Registrar or arbitrators under this Act are respectively chargeable; and

(*b*) any fee payable under the law of registration for the time being in force.

CHAPTER VI.

STATE AID TO REGISTERED SOCIETIES.

44. *Investment by Government in registered societies.*—(1) The Government may subscribe directly to the share-capital of a registered society. . . .

(2) Notwithstanding any agreement to the contrary, the Government shall not be entitled to any dividend on the shares taken by them with any such registered society at a rate higher than that at which such dividend is payable in respect of any other share in that society.

45. *Provision of funds by Government to apex society.*—The Government may, subject to appropriation by law, provide moneys to a registered society (hereinafter in this Chapter referred to as the apex society) for the purchase of shares in other registered societies. . . .

46. *Partnership of Government with apex society.*—(1) An apex society which is provided with moneys by the Government under section 45 shall, with such moneys, establish a fund to be called the 'Principal State Partnership Fund'.

(2) An apex society shall utilize the Principal State Partnership Fund for the purpose of—

(*a*) directly purchasing shares in other registered societies;

. . .

(*b*) providing moneys to a registered society (hereinafter in this Chapter referred to as the central society) to enable that society to purchase shares in other registered societies (hereinafter in this Chapter referred to as the primary societies);

(*c*) making payments to the Government in accordance with the provisions of this Chapter;

and for no other purpose.

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47. *Subsidiary State Partnership Fund.*—(1) A central society which is provided with moneys by an apex society from the Principal State Partnership Fund shall, with such moneys, establish a fund to be called the 'Subsidiary State Partnership Fund'.

(2) A central society shall utilize the Subsidiary State Partnership Fund for the purpose of—

(*a*) purchasing shares in primary societies;

(*b*) making payments to the apex society in accordance with the provisions of this Chapter;

and for no other purpose.

48. *Approval of Government for purchase of shares.*—No shares shall be purchased in a registered society from the moneys in the Principal State Partnership Fund or the Subsidiary State Partnership Fund except with the previous approval in writing of the Government.

49. *Liability to be limited in respect of certain shares.*—Where shares are purchased in a registered society by—

(*a*) the Government; or

(*b*) an apex society or a central society from the Principal State Partnership Fund or the Subsidiary State Partnership Fund, as the case may be,

the liability in respect of such shares shall, in the event of the registered society being wound up, be limited to the amount paid in respect of such shares.

50. *Restrictions on amount of dividend.*—An apex society which has purchased shares in other registered societies from the moneys in the Principal State Partnership Fund and a central society which has purchased shares in primary societies from the moneys in the Subsidiary State Partnership Fund shall be entitled only to such dividend on the said shares as is declared by the soceity concerned and is payable to other shareholders of that society.

51. *Indemnity of apex and central societies.*—(1) If a registered society in which shares are purchased from the Principal State Partnership Fund is wound up or is dissolved, the Government shall not have any claim against the apex society which purchased the shares in respect of any loss arising from such purchase:

Provided that the apex society shall remit to the Government any money received from the liquidator of the dissolved society in repayment of the share capital invested in the society from the said Partnership Fund and any dividend paid on such share capital.

(2) If a registered society in which shares are purchased from the Subsidiary State Partnership Fund is wound up or is dissolved, neither the Government nor the apex society shall have any

claim against the central society which purchased the shares in respect of any loss arising from such purchase:

Provided that the central society shall credit to the Subsidiary State Partnership Fund and remit to the apex society to the credit of the Principal State Partnership Fund any money received from the liquidator of the dissolved society in repayment of the share capital invested in the society from the Subsidiary State Partnership Fund.

52. *Disposal of share capital and dividend, etc.*—(1) All moneys received by an apex society in respect of shares of other registered societies purchased from the money in the Principal State Partnership Fund on redemption of such shares or by way of dividends or otherwise shall be credited to that Fund.

(2) All moneys received by a central society in respect of shares of primary societies purchased from the moneys in the Subsidiary State Partnership Fund on redemption of such shares or by way of dividends or otherwise, shall in the first instance be credited to the Fund and then transferred to the apex society which shall credit them to the Principal State Partnership Fund.

(3) All moneys and dividends referred to in sub-section (1) and sub-section (2) shall, notwithstanding that the shares stand in the name of the apex society or the central society, as the case may be, be paid to the Government.

(4) Save as provided in sub-section (3), the Government shall not be entitled to any other return on the moneys provided by them to an apex society under section 45.

53. *Disposal of Principal State Partnership Fund and Subsidiary State Partnership Fund on winding up of an apex or central society.*—(1) If an apex society which has established a Principal State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that Fund shall be paid to the Government.

(2) If a central society which has established a Subsidiary State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that Fund shall be paid and credited to the Principal State Partnership Fund from which it received moneys under clause (*b*) of sub-section (2) of section 46.

54. *Principal State Partnership Fund and Subsidiary State Partnership Fund not to form part of assets.*—Any amount in a Principal State Partnership Fund or a Subsidiary State Partnership Fund shall not form part of the assets of the apex society or the central society, as the case may be.

55. *Agreement by Government and apex societies.*—Subject to the foregoing provisions of this Chapter—

(*a*) the Government may enter into an agreement with an apex society setting out the terms and conditions on which they shall provide moneys to the apex society for the purpose specified in sub-section (2) of section 46;

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(*b*) an apex society may, with the previous approval of the Government, enter into an agreement with a central society, setting out the terms and conditions on which it shall provide moneys to that society from the Principal State Partnership Fund for the purpose specified in clause (*b*) of sub-section (2) of section 46.

56. *Other forms of State aid to registered societies.*—Notwithstanding anything contained in this Act or any other law for the time being in force, the Government may—

(*a*) grant loans or make advances to any registered society;

(*b*) guarantee the repayment of principal and payment of interest on debentures issued by a registered society;

(*c*) guarantee the repayment of share capital of a registered society and dividends thereon at such rates as may be specified by the Government;

(*d*) guarantee the repayment of principal and payment of interest on loans and advances to a registered society;

(*e*) guarantee the repayment of deposits received by a registered society and payment of interest on such deposits; and

(*f*) give financial assistance in any other form including subsidies, to any registered society.

57. *Provisions of this Chapter to override other laws.*—The provisions of sections 45 to 55 . . . . shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

CHAPTER VII.

PROPERTY AND FUNDS OF REGISTERED SOCIETIES.

58. *Restrictions on loans.*—(1) A registered society shall not make a loan to any person other than a member:

Provided that, with the general or special sanction of the Registrar, a registered society may make loans to another registered society:

Provided further that a registered society may make such loans as may be specified in the by-laws to any of its paid employees.

(2) Notwithstanding anything contained in sub-section (1), a registered society may make a loan to a depositor on the security of his deposit.

(3) The Government may, by general or special order, prohibit or restrict the lending of money on mortgage of immovable property by any registered society or class of registered societies.

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59. *Restrictions on borrowings.*—A registered society shall receive deposits and loans only to such extent and subject to such conditions as may be prescribed by the rules or the by-laws. . . .

60. *Investment of funds.*—Subject to the provisions of sub-section (3) of section 58, a registered society may invest or deposit its funds—

(*a*) in the Government Savings Bank, or

(*b*) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 (Central Act II of 1882), or

(*c*) in the shares or securities of any other registered society, provided that no such investment shall be made in the shares of any society with unlimited liability except with the general or special sanction of the Registrar and subject to such limits as may be specified by him from time to time, or

(*d*) with any bank or person carrying on the business of banking, approved for this purpose by the Registrar, or

(*e*) in any other mode permitted by the rules.

61. *Funds not to be divided among members.*—(1) No part of the funds of a registered society, except net profits as declared by the Registrar for the purposes of this Act, shall be divided by way of bonus or dividend or otherwise among its members:

Provided that payment may be made to a member for work done by him as secretary or as clerk on such scale as may be prescribed by the by-laws.

(2) Save as provided in sub-section (1), no payment shall be made out of the funds of a registered society to the president or to any officer of the society by way of honorarium for any service rendered by him to the society.

62. *Disposal of net profits.*—The net profits of any registered society as declared by the Registrar for the purposes of this Act in respect of any co-operative year shall be appropriated—

Firstly, for being credited to a reserve fund, the amount so credited being not less than twenty-five per cent of the net profits;

secondly, towards contribution to such other funds and at such rates as may be specified in the rules;

thirdly, towards payment of dividends on shares to members at such rate as may be specified in the rules;

fourthly, towards payment of bonus to members and paid employees of the registered society at such rate and subject to such conditions as may be specified in the rules;

fifthly, towards contribution to the co-operative education fund at such rate not exceeding two per cent of the net profits as may be specified in the rules;

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sixthly, towards contribution to such other funds and at such rates as may be specified in the by-laws;

seventhly, towards contribution to the common good fund at such rate not exceeding ten per cent of the net profits as may be specified in the rules; and

eighthly, the balance, if any, of the net profits being credited to the reserve fund.

63. *Provident fund.*—(1) A registered society may establish a provident fund for the benefit of its employees to which shall be credited all contributions made by the employees and the society in accordance with the by-laws.

(2) A provident fund established by a registered society under sub-section (1)—

(*a*) shall not be used in the business of the society;

(*b*) shall not form part of the assets of the society; and

(*c*) shall not be liable to attachment or be subject to any other process of any court or other authority.

CHAPTER VIII.

AUDIT, INQUIRY, INSPECTION, SURCHARGE AND SUPERSESSION.

64. *Audit.*—(1) The Registrar shall audit or cause to be audited by some person authorized by him by general or special order in writing in this behalf the accounts of every registered society once at least in every year.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities and a valuation of the assets and liabilities of the society.

(3) The Registrar or the person authorized by him under sub-section (1) shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession of, or responsible for, the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any place at the headquarters of the society or any branch thereof.

(4) Every person who is, or has at any time been, an officer or employee of the society and every member and past member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the person authorised by him may require.

* * * *

(5) The Registrar may, by order in writing, direct any officer of the society to take such action as may be specified in the order to remedy within such time as may be specified therein the defects, if any, disclosed as a result of the audit.

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(6) Every registered society shall pay to the Government such fee for the audit of its accounts for each co-operative year as may be fixed by the Registrar in accordance with the rules made in this behalf and the fee levied for audit shall be recoverable in the manner specified in section 94 :

Provided that the Government may remit the whole or any part of the fee payable for audit by any society or class of societies for any co-operative year.

65. *Inquiry.*—(1) The Registrar may, of his own motion and shall, on the application of a majority of the committee or of not less than one-third of the members or on the request of the Collector, hold an inquiry, or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society.

(2) The Registrar or the person authorised by him under sub-section (1) shall have the following powers, namely :—

(*a*) He shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of, the society and may summon any person in possession of, or responsible for, the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any place at the headquarters of the society or any branch thereof.

(*b*) He may seize the books, accounts or documents of the society, if he considers that such seizure is necessary to ensure the safety of such books, accounts or documents or to facilitate his inquiry, and shall give the person from whose custody the books, accounts or documents have been seized a receipt for the same :

Provided that the books, accounts or documents so . . . seized shall be retained by him only for so long as may be necessary for their examination and for the purpose of inquiry :

Provided further that the books, accounts or documents shall not be retained for more than sixty days at a time except with the permission of the next higher authority.

(*c*) He may summon any person who he has reason to believe, has knowledge of any of the affairs of the society and may examine such person on oath and may summon any person to produce any books, accounts or documents belonging to him or in his custody if the Registrar or the person authorised as aforesaid has reason to believe that such books, accounts or documents contain any entry relating to transactions of the society.

(*d*) (i) He may, notwithstanding any rule or by-law prescribing the period of notice for a general meeting of the society or for a meeting of the committee, require any officer or officers of the society to call a general meeting or a meeting of the committee at such time and place at the headquarters of the society or any branch thereof to consider such matters as may be specified

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by him and the provisions of sub-clauses (i) and (ii) of clause (*b*) of sub-section (4) of section 26 shall apply to any meeting called under this sub-clause as if it were a meeting called in pursuance of a requisition under clause (*a*) of sub-section (3) of that section .

(ii) If the officer or officers of the society refuses or refuse or fails or fail to call such meeting or if in the opinion of the Registrar there is no committee or officer or officers competent under this Act, the rules or the by-laws to call such meeting, or if there be a dispute regarding the competence of the committee, officer or officers to call such meeting, the Registrar or the person authorised by him under sub-section (1) shall have power to call the meeting himself and the provisions of clause (*b*) of sub-section (4) of section 26 and sub-section (5) of that section shall apply to such meeting as if it were a meeting called under clause (*a*) of the said sub-section (4).

(3) When an inquiry is held under this section, the Registrar shall communicate the result of the inquiry—

(i) in case the Government have subscribed directly to the share capital of the registered society or in case any moneys are due from the registered society either to the Principal State Partnership Fund or to the Subsidiary State Partnership Fund referred to in Chapter VI, to the Government or to any officer appointed by the Government in this behalf;

(ii) to the financing bank, if any, to which the society is affiliated; and

(iii) to the society concerned.

(4) The Registrar may, by order in writing, direct any officer of the society or its financing bank to take such action as may be specified in the order to remedy, within such time as may be specified therein, the defects, if any, disclosed as a result of the inquiry.

66. *Inspection.*—(1) The Registrar may, of his own motion, or on the application of a creditor of a registered society, inspect or direct any person authorized by him in this behalf by general or special order in writing to inspect the books of the society and the Registrar or the person so authorized shall have all the powers of the Registrar when holding an inquiry under section 65 :

Provided that no such inspection shall be made or directed on the application of a creditor unless the creditor—

(*a*) satisfies the Registrar that the debt is a sum then due and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(*b*) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(2) Where an inspection is made under sub-section (1), the Registrar shall communicate the results of such inspection,—

(*a*) where the inspection is made on his own motion, to the society; and

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(*b*) where the inspection is made on the application of a creditor, to the creditor and to the financing bank, if any, to which the society is affiliated.

(3) The Registrar may, by order in writing, direct any officer of the society to take such action as may be specified in the order to remedy within such time as may be specified therein the defects, if any, disclosed as a result of the inspection.

67. *Inspection of books by financing bank.*—A financing bank shall have the right to inspect the books of any registered society which is indebted to it. The inspection may be made either by an officer of the financing bank authorized by the committee of such financing bank or by a member of its paid staff certified by the Registrar as competent to undertake such inspection. The officer or member so inspecting shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may also call for such information, statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank.

68. *Costs of inquiry and inspection.*—(1) Where an inquiry is held under section 65 or an inspection is made under section 66, the Registrar may, after giving the parties an opportunity of making their representations, apportion the costs, or such part of the costs as he may think right, between the society, the members or creditors demanding an inquiry or inspection, the officers or former officers of the society. Costs may also be awarded by the Registrar to the financing bank in the case of inspection under section 67, by the financing bank.

(2) Any sum awarded by way of costs under sub-section (1) may be recovered as if it were an arrear of land revenue.

69. *Registered society to pay certain expenses.*—Every registered society shall pay to the Government such sum as may be determined in the prescribed manner in respect of any special or additional staff employed by the Government for the purpose of the society.

70. *Suspension of officer or servant of society.*—(1) Where in the course of an audit under section 64 or an inquiry under section 65 or an inspection under section 66 or section 67, it is brought to the notice of the Registrar that a paid officer or servant of a registered society has committed or has been otherwise responsible for misappropriation, breach of trust or other offence, in relation to the society, the Registrar may, if in his opinion, there is prima facie evidence against such paid officer or servant and the suspension of such paid officer or servant is necessary in the interests of the society, direct the committee of the society pending the investiga-

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tion and disposal of the matter, to place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him.

(2) On receipt of a direction from the Registrar under sub-section (1), the committee of the registered society shall, notwithstanding any provision to the contrary in the by-laws, place or cause to be placed the paid officer or servant under suspension forthwith.

(3) The Registrar may direct the committee to extend from time to time, the period of suspension and the paid officer or servant suspended shall not be reinstated except with the previous sanction of the Registrar.

71. *Surcharge.*—(1) Where in the course of an audit under section 64 or an inquiry under section 65 or an inspection under section 66 or section 67 or the winding up of a society, it appears that any person who is or was entrusted with the organization or management of the society or any past or present officer or servant of the society has misappropriated or fradulently retained any money or other property or been guilty of breach of trust in relation to the society or has caused any deficiency in the asset of the society by breach of trust or wilful negligence or has made any payment contrary to this Act, the rules or the by-laws, the Registrar himself, or any person specially authorized by him in this behalf, of his own motion or on the application of the committee, liquidator or any creditor or contributory may inquire into the conduct of such person or officer or servant and make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate as the Registrar or the person authorized as aforesaid thinks just or to contribute such sum to the assets of the society by way of compensation in respect of the misappropriation, misapplication of funds, fraudulent retainer, breach of trust or wilful negligence as the Registrar or the person authorized as aforesaid thinks just :

Provided that no such inquiry shall be held after the expiry of six years from the date of any act or omission referred to in this sub-section :

Provided further that no order shall be passed against any person referred to in this sub-section unless the person concerned has been given an opportunity of making his representations.

(2) Any sum ordered under this section to be repaid to a registered society or recovered as a contribution to its assests may be recovered on a requisition being made in this behalf by the Registrar to the Collector in the same manner as arrears of land revenue.

(3) This section shall apply notwithstanding that such person or officer or servant may have incurred criminal liability by his act.

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72. *Supersession of committee.*—(1) (*a*) If, in the opinion of the Registrar, the committee of any registered society is not functioning properly or wilfully disobeys or wilfully fails to comply with any lawful order or direction issued by the Registar under this Act or the rules, he may, after giving the committee an opportunity of making its representations, by order in writing, supersede the committee and appoint either a person (hereinafter referred to as the special officer) or a committee of two or more persons (hereinafter referred to as the managing committee) to manage the affairs of the society for a specified period not exceeding two years. . .

(*b*) The period specified in such order may, at the discretion of the Registrar, be extended from time to time provided that such order shall not remain in force for more than four years in the aggregate.

(2) Where a special officer is appointed, the Registrar may appoint an advisory board consisting of not more than five persons to advise the special officer in such matters as may be specified by him.

(3) The special officer or the managing committee appointed under sub-section (1) shall, subject to the control of the Registrar and to such directions as he may, from time to time, give, have power to exercise all or any of the functions of the committee or of any officer of the society and to take such action as may be required in the interest of the society.

(4) The Registrar may fix the remuneration payable to the special officer or the managing committee appointed under sub-section (1). The amount of the remuneration so fixed and such other expenditure incidental to the management of the society during the period of supersession as may be approved by the Registrar shall be payable from the funds of the society.

(5) The special officer or the managing committee appointed under sub-section (1) shall, at the expiry of the period of his or its appointment arrange for the constitution of a new committee in accordance with the provisions of this Act, the rules and the by-laws.

(6) Before taking any action under sub-section (1) in respect of any registered society, the Registrar shall consult the financing bank to which the society is indebted.

(7) Nothing contained in this section shall be deemed to affect the power of the Registrar to order the winding up of the society under section 85.

(8) An order under sub-section (1) shall take effect from the date specified therein unless stayed by an order of the Government. Where an order under sub-section (1) is reversed on appeal, the special officer, or the managing committee, as the case may be, appointed under sub-section (1) shall forthwith hand over the management of the society to the committee.

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CHAPTER IX.

SETTLEMENT OF DISPUTES.

73. *Disputes.*—(1) If any dispute touching the constitution of the committee or the management or the business of a registered society (other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society) arises—

(*a*) among members, past members and persons claiming through members, past members and deceased members, or

(*b*) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or servant of the society, or

(*c*) between the society or its committee and any past committee, any officer, agent or servant, or any past officer, past agent or past servant, or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased servant of the society, or

(*d*) between the society and any other registered society, such dispute shall be referred to the Registrar for decision.

Explanation.—For the purposes of this section, a dispute shall include—

(i) a claim by a registered society for any debt or demand due to it from a member, past member or the nominee, heir or legal representative of a deceased member whether such debt or demand be admitted or not, and

(ii) a claim by a registered society against a member, past member or the nominee, heir or legal representative of a deceased member for the delivery of possession to the society of land or other immovable property resumed by it for breach of the conditions of assignment or allotment of such land or other immovable property :

Provided that no dispute relating to, or in connection with, any election to a committee shall be referred under this sub-section till the date of the declaration of the result of such election.

(2) The Registrar may, on receipt of such reference,—

(a) decide the dispute himself or transfer it for disposal to any person subordinate to and empowered by him; or

(*b*) subject to such rules as may be prescribed, refer it for disposal to an arbitrator or arbitrators.

(3) Subject to such rules as may be prescribed, the Registrar may withdraw any dispute referred under sub-section (1) to any person subordinate to him or transferred under clause (*a*) or referred under clause (*b*) of sub-section (2) by the Registrar or any person subordinate to him and—

(*a*) decide the dispute himself; or

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(*b*) transfer it for disposal to any person subordinate to and empowered by him; or

(*c*) refer it for disposal to an arbitrator or arbitrators; or

(*d*) re-transfer the same for disposal to the person from whom it was withdrawn; or

(*e*) refer it for disposal to the arbitrator or arbitrators from whom it was withdrawn.

(4) If a question arises, whether for the purposes of this section, any person is or was a member of a registered society, or whether any dispute referred for decision is a dispute touching the constitution of the committee, or the management or the business of the society, such question shall be decided by the Registrar.

(5) Where any dispute referred to the Registrar under sub-section (1) or withdrawn by him under sub-section (3) relates to immovable property, the Registrar or the person or the arbitrator or arbitrators to whom it is transferred, referred to re-transferred under sub-section (2) or sub-section (3) may, on the application of a party to the dispute, direct that any person who is interested in such property, whether such person be a member or not, be included as a party to the dispute and any decision that may be passed on the reference, by the Registrar, the person, the arbitrator or arbitrators aforesaid, as the case may be, shall be binding on the party so included, provided that he shall be liable only to the extent of such property.

(6) The Registrar may pass such interlocutory orders as he may deem fit in the interest of justice.

CHAPTER X.

JOINT FARMING SOCIETIES.

74. *Application of Chapter.*—This Chapter shall apply only to joint farming societies.

* * * * *

75. *Definitions.*—In this Chapter, unless the context otherwise requires,—

(1) "competent authority" means any person or authority authorised by the Government, by notification, to perform the functions of the competent authority under this Chapter for such area as may be specified in the notification;

(2) "joint farming society" means a registered society, which has as its object the cultivation on a joint basis of the lands of the members pooled for the purpose and such other lands owned or possessed by such registered society, where substantially the members or the members of their families engage themselves in such cultivation and are remunerated for the services rendered by them to the society;

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(3) "person interested" in relation to lands, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the acquisition of those lands under sub-section (2) of section 81:

(4) "works" includes buildings, structures and improvements of every description.

76. *Admission of members.*—Notwithstanding anything contained in section 17, every application for membership of a joint farming society shall be considered by the committee which may grant or refuse admission.

77. *Creation of charge in favour of joint farming* ***society by a*** *member.*—(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, a member of a joint farming society whose lands have been pooled in the manner set out in clause (2) of section 75, shall, if so required by such society, make a declaration in the form prescribed that he thereby creates a charge upon those lands in respect of any loan taken by the joint farming society in connection with or to facilitate the operations of such society and the charge so created shall be deemed to have been transferred to the person from whom the joint farming society has taken the loan.

(2) No declaration made under sub-section (1) shall be varied or cancelled by a member without the previous written permission of the joint farming society, and the joint farming society shall not give such permission without the approval of the person to whom the charge stands transferred under sub-section (1).

(3) (*a*) No land in respect of which a declaration has been made under sub-section (1) or any part of such land or any interest in such land shall be sold or otherwise transferred without the previous written permission of the joint farming society, and such permission shall not be given by the joint farming society without the approval of the person to whom the charge stands transferred under sub-section (1).

(*b*) Notwithstanding anything contained in any law for the time being in force, any transaction made in contravention of clause (*a*) shall be null and void.

(4) The declaration made under sub-section (1) or any variation or cancellation thereof shall be sent by registered post by the joint farming society to the sub-registrar having jurisdiction over the area in which the lands are situated.

(5) On receipt of the declaration, variation or cancellation, the sub-registrar shall, notwithstanding anything contained in any law for the time being in force, register such declaration, variation or cancellation and issue a copy thereof to the joint farming society.

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(6) Any declaration made under sub-section (1) or any variation or cancellation thereof which has not been registered under sub-section (5) shall, notwithstanding anything contained in this Act or in any other law for the time being in force, be null and void.

78. *Agreement between the joint farming society and its members in respect of lands.*—A joint farming society may require any of its members to pool his lands for the purpose of cultivation by the joint farming society on a joint basis and for that purpopse to place those lands at the disposal of the joint farming society for such period not being less than five years as may be agreed upon by the joint farming society and such member.

79. *Vesting of lands in joint farming society and registration of agreement.*—(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, every member of a joint farming society whose lands have been pooled in the manner set out in clause (2) of section 75 shall addition to the declaration made under sub-section (1) of section 77, execute an agreement with the joint farming society specifying the period for which the lands shall vest in the joint farming society, the basis on which the share of his income shall be determined, and such other matters as may be prescribed.

(2) The agreement executed under sub-section (1) shall be sent by registered post by the joint farming society to the sub-registrar having jurisdiction over the area in which the lands are situated.

(3) On receipt of the agreement, the sub-registrar shall, notwithstanding anything contained in any law for the time being in force, register such agreement and issue a copy thereof to the joint farming society.

(4) Any agreement executed under sub-section (), which has not been registered under sub-section (3) shall, notwithstanding anything contained in this Act or in any other law for the time being in force, be null and void.

80. *Prohibition against withdrawal of lands during the period of agreement.*—Notwithstanding anything contained in this Act or in any other law for the time being in force, no member of a joint farming society whose lands have been pooled in the manner set out in clause (2) of section 75, shall, before the expiry of the period specified in the agreement executed by him under sub-section (1) of section 79, be entitled or allowed to withdraw the lands so pooled by him from the possession or control of the joint farming society.

* * * *

81. *Disposal of lands after the expiry of the agreement.*—(1) The joint farming society may, after the expiry of the period specified in the agreement executed by the member under sub-section (1) of

section 79, purchase the lands pooled in the manner set out in clause (2) of section 75 by such member or exchange those lands for other lands of equal value belonging to the joint farming society.

(2) (*a*) Notwithstanding anything contained in sub-section (1), the Government may, if they are of opinion that it is necessary to acquire the lands specified in sub-section (1), at any time, acquire those lands by publishing in the *Fort St. George Gazette*, a notice to the effect that the Government have decided to acquire the lands in pursuance of this sub-section :

Provided that before publishing such notice, the Government shall call upon the owner of, or any other person who, in the opinion of the Government, may be interested in, the lands to be acquired to show cause why the lands should not be acquired; and after considering the cause, if any, shown by any person interested in the lands and after giving the parties an opportunity of making their representations, the Government may pass such orders as they deem fit.

(*b*) When a notice as aforesaid is published in the *Fort St. George Gazette* the lands to which such notice relates shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Government free from all encumbrances.

(*c*) No land shall be acquired under this sub-section except in the following circumstances, namely :—

(i) where any works have, during the period specified in the agreement executed under sub-section (1) of section 79, been constructed on, in or over, the lands wholly or partially at the expense of the joint farming society and the Government decide that the value of or the right to use such works should be secured or preserved for the purposes of the joint farming society; or

(ii) where the lands to be acquired could not, in the opinion of the Government, be severed from the other lands which are cultivated in the manner specified in clause (2) of section 75 without detriment to the other lands cultivated as aforesaid.

(3) (*a*) Where any lands acquired under sub-section (2) are transferred to a joint farming society and such joint farming society proposes to sell or otherwise transfer any such land or portion thereof or in the event of the joint farming society being ordered to be wound up, the liquidator appointed under section 86, proposes to sell or otherwise transfer any such land or portion thereof, the person who immediately before the acquisition of such land or portion under sub-section (2) was the owner thereof (hereinafter in this sub-section referred to as " the previous owner " which expression shall include his successors in interest) shall have the right to acquire such land or portion in preference to all other persons.

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(*b*) The joint farming society or the liquidator, as the case may be, proposing to sell the land or portion thereof shall give notice to the previous owner of the price at which the joint farming society or the liquidator is willing to sell it.

(*c*) The previous owner to whom a notice is given under clause (*b*) shall lose the right under clause (*a*), unless within three months from the date of the receipt by him of such notice he pays or tenders the price specified in such notice to the joint farming society or the liquidator, as the case may be.

82. *Principles and method of determining compensation for lands acquired under section* 81.—(1) Where any lands are acquired under sub-section (2) of section 81, there shall be paid compensation, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(*a*) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(*b*) where no such agreement can be reached, the Government shall appoint as arbitrator a judicial officer not below the rank of Subordinate Judge;

(*c*) the Government may, in any particular case, nominate a person having expert knowledge as to the nature of the lands acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;

(*d*) at the commencement of the proceedings before the arbitrator, the Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;

(*e*) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid; and in making the award, he shall have regard to the circumstances of each case and the provisions of sub-section (2), so far as they are applicable;

(*f*) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;

(*g*) nothing in the Arbitration Act, 1940 (Central Act X of 1940), shall apply to arbitrations under this section.

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(2) The amount of compensation payable for the acquisition of lands under sub-section (1) shall be—

(*a*) (i) the price which the lands would have fetched in the open market if they had been sold on the date of acquisition after deducting from such price the value of the works constructed on, in or over the lands by the joint farming society; or

(ii) twice the price which the lands would have fetched in the open market if they had been sold on the date on which the lands were pooled in the manner set out in clause (2) of section 75,

whichever is less; and

(*b*) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely :—

(i) expenses on account of vacating the lands; and

(ii) any other matter which may be relevant to the circumstances of the case.

83. *Payment of compensation.*—The amount of compensation payable under an award shall, subject to the rules, be paid by the competent authority to the person or persons entitled thereto in such manner and within such time as may be specified in the award.

84. *Restriction on the acquisition of land under the Land Acquisition Act, 1894, for joint farming societies.*—Notwithstanding anything contained in the Land Acquisition Act, 1894 (Central Act I of 1894), no land shall be acquired under that Act for the purpose of a joint farming society if the extent of the land to be so acquired exceeds ten per cent of the total extent of the lands pooled by its members :

Provided that no land shall be acquired as aforesaid unless the purpose of a joint farming society for which it is so acquired is a purpose specified in the rules made in this behalf.

CHAPTER XI.

Winding up and cancellation of registration of registered societies.

85. *Winding up of registered societies.*—(1) If the Registrar, after an inquiry has been held under section 65 or an inspection has been made under section 66 or section 67, or on receipt of an application made by not less than three-fourths of the members of a registered society, is of opinion that the society ought to be wound up, he may, after giving the society an opportunity of making its representations, by order in writing direct it to be wound up. A copy of the order shall forthwith be communicated to the society by registered post.

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(2) The Registrar may, by order in writing, direct the winding up of a registered society—

(a) where it is a condition of the registration of the society that the society shall consist of at least ten members and the number of members has been reduced to less than ten; or

(b) where the society has not commenced working within the prescribed period or has ceased to work.

86. *Liquidator.*—(1) Where the Registrar has made an order under section 85 for the winding up of a registered society, he may appoint a liquidator for the purpose and fix his remuneration.

(2) A liquidator shall, on appointment, take into his custody or under his control all the property, effects and actionable claims to which the society is or appears to be entitled and shall take such steps as he may deem necessary or expedient, to prevent loss or deterioration of, or damage to, such property, effects and claims.

(3) Where an appeal is preferred under clause (a) of sub-section (2) of section 96, an order of winding up a registered society made under sub-section (1) of section 85 shall not operate thereafter until the order is confirmed in appeal :

Provided that the liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and have authority to take the steps referred to in that sub-section.

(4) Where an order of winding up of a registered society is set aside in appeal, the property, effects and actionable claims of the society shall revest in the society.

87. *Powers of liquidator.*—(1) Subject to any rules made in this behalf the whole of the assets of a registered society in respect of which an order for winding up has been made, shall vest in the liquidator appointed under section 86 from the date on which the order takes effect and the liquidator shall have power to realize such assets by sale or otherwise.

(2) Subject to the control of the Registrar such liquidator shall also have power—

(a) to institute and defend suits and other legal proceedings on behalf of the registered society by his name of office;

(b) to determine from time to time the contribution (including debts due) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society;

(c) to investigate all claims against the registered society, and, subject to the provisions of this Act, to decide questions of priority arising between claimants ;

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(*d*) to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties beloning to or in the custody of the society by the same means and so far as may be in the same manner as is provided in the case of a civil court under the Code of Civil Procedure, 1908 (Central Act V of 1908);

(*e*) subject to any rules made in this behalf, to pay claims against the registered society including interest up to the date of winding up according to their respective priorities, if any, in full or rateably, as the asests of the society may permit; to apply the surplus, if any, remaining after payment of the claims for the payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case;

(*f*) to determine by what persons and in what proportions the costs of the liquidation are to be borne;

(*g*) to determine whether any person is a member, past member or nominee of deceased member;

(*h*) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society;

(*i*) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same;

(*j*) with the previous approval of the prescribed authority, to make any compromise or arrangement with creditors or persons having any claim, present or future, whereby the society may be rendered liable; and

(*k*) with the prevíous approval of the prescribed authority, to compromise all calls or liabilities to any calls and debts and liabilities capable of resulting in debts and all claims, present or future, certain or contingent, subsisting or supposed to subsist between the society and alleged contributory or other debtor or a contributory or person apprehending liability to the society and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.

(3) Any sum ordered under this section to be recovered as a contribution to the assets of a registered society or as costs of liquidation may be recovered, on a requisition being made in this behalf by the Registrar to the Collector in the same manner as arrears of land revenue.

(4) Save as provided in sub-section (3), orders made under this section shall, on application, be enforced by any civil court having local jurisdiction in the same manner as a decree of such court.

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(5) When the affairs of a registered society have been wound up, the liquidator shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

* * * *

88. *Cancellation of registration.*—Where the affairs of a registered society have been completely wound up, the Registrar shall make an order cancelling the registration of the society. On the cancellation of its registration the society shall cease to exist as a corporate body from the date of such order of cancellation.

89. *Bar of legal proceedings.*—Save in so far as is expressly provided in this Act, no civil court shall take cognizance of any matter connected with the winding up or cancellation of the registration of a registered society under this Act, and when a liquidator has been appointed, no suit or other legal proceeding shall lie or be proceeded with against the liquidator as such or against the society or any member thereof on any matter touching the affairs of the registered society, except by leave of the Registrar and subject to such terms as he may impose.

90. *Restoration of society ordered to be wound up.*—Where, in the opinion of the Registrar, a registered society which has been ordered to be wound up may be restored to a committee constituted in accordance with the provisions of this Act, the rules and the by-laws, he may, at any time, before the affairs of the society have been completely wound up, cancel of withdraw the order of winding up and direct the liquidator to constitute a committe in accordance with the provisions of this Act, the rules and the by-laws and hand over the management of the registered society to such committee.

CHAPTER XII.

EXECUTION OF DECREE, DECISION, AWARDS AND ORDERS.

91. *Power of the Registrar to recover certain sums by attachment and sale of property.*—The Registrar or any person subordinate to him empowered by the Registrar in this behalf may, subject to the rules and without prejudice to any other mode of recovery provided by or under this Act, recover—

(*a*) any sum due under a decree or an order of a civil court, a decision or an award of the Registrar or any person subordinate to and empowered by the Registrar or arbitrator or arbitrators or an order of the Registrar; or

(*b*) any sum due from a registered society or from an officer, former officer, member or past or deceased member of a registered society as such to Government including any costs awarded to the Government in any proceedings under this Act; or

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(*c*) any sum ordered to be paid towards the expenses of a general meeting of a registered society called under sub-section (4) of section 26 or sub-clause (ii) of clause (*d*) of sub-section (2) of section 65; or

(*d*) any sum awarded by way of costs under section 68 to a registered society including a financing bank; or

(*e*) any sum ordered under section 87 to be recovered as a contribution to the assets of a registered society or as costs of liquidation; or

(*f*) any sum ordered under section 71 to be repaid to a registered society or recovered as a contribution to its assets,

together with the interest, if any, due on such sum and the costs of process by the attachment and sale or by the sale without attachment of the property of the person against whom such decree, decision, award or order, has been obtained or passed.

92. *Recovery of debts.*—Notwithstanding anything contained in this Act or in any other law for the time being in force and without prejudice to any other mode of recovery which is being taken or may be taken, the Registrar or any person subordinate to him empowered by the Registrar in this behalf, may, subject to the rules and on application from a registered society for the purpose, recover any debt or outstanding demand due to the society by any member or past or deceased member, by sale of the property or interest in property which is subject to a charge under sub-section (1) of section 32:

Provided that no sale shall be ordered under this section unless the member or past member or the nominee, heir or legal representative of the deceased member has been served, in the manner prescribed, with a notice of the application to sell and has failed to pay the debt or outstanding demand within seven days from the date of such service.

93. *Registrar or person empowered by him to be a civil court for certain purposes.*—The Registrar or any person empowered by him in that behalf shall be deemed, when exercising any power under this Act for the recovery of any amount by the attachment and sale or by the sale without attachment of any property, or when passing any orders on any application made to him for such recovery or to take some step in aid of such recovery, to be a civil court for the purposes of Article 182 of the First Schedule to the Indian Limitation Act, 1908 (Central Act IX of 1908).

94. *Recovery of sums due to Government.*—(1) All sums due from a registered society or from an officer, former officer, member or past or deceased member of a registered society as such to the Government including any costs awarded to the Government in any proceeding under this Act may be recovered in the same manner as arrears of land revenue.

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(2) Sums due from a registered society to the Government and recoverable under sub-section (1) may be recovered, firstly from the property of the registered society; secondly, in the case of a society the liability of the members of which is limited from the members, past members or the estates of deceased members subject to the limit of their liability; and thirdly in the case of other societies, from the members, past members or the estates of deceased members:

Provided that the liability of past members and of the estates of deceased members shall in all cases be subject to the provisions of section 25.

CHAPTER XIII.

Appeals, Revision and Review.

95. *Co-operative Tribunal.*—(1) The Government may constitute as many Tribunals as may be necessary for the purposes of this Act.

(2) Each Tribunal shall consist of one person only who shall be a judicial officer not below the rank of Subordinate Judge.

(3) Each Tribunal shall have such jurisdiction and over such area, as the Government may, by notification from time to time, determine.

* * * *

96. *Appeals.*—(1) Any person aggrieved by—

(*a*) any decision passed or order made under sub-section (1) of section 71, sub-section (2), sub-section (3) or sub-section (4) of section 73, section 91 or section 108; or

(*b*) any award of an arbitrator or arbitrators under sub-section (2) or sub-section (3) of section 73; or

(*c*) any award of an arbitrator under section 82; may appeal to the Tribunal:

Provided that nothing contained in clause (*a*) or clause (*b*) of this sub-section shall apply to—

(i) any decision, order or award under sub-section (2), sub-section (3) or sub-section (4) of section 73 in respect of any matter relating to or in connection with, the constitution of a committee including any election thereto; or

(ii) any order of transfer, reference, withdrawal or retransfer of a dispute under sub-section (2) or sub-section (3) of section 73.

(2) (*a*) Any person aggrieved by any decision under sectoin 7 refusal to register a society under section 9 or amendment of the by-laws under section 11, reistration of amendment of the by-laws under sub-section (2) of section 12, approval of or refusal to approve the removal of a member under the proviso to clause (*a*)

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of sub-section (2) of section 17, approval of or refusal to approve expulsion of a member under sub-section (2) of section 20, decision under sub-section (6) of section 28 or order under sub-section (1) of section 72 or section 85 may appeal, if such decision, refusal, registration, approval or order is that of—

(i) the Registrar of Co-operative Societies for the State of Madras, to the Government; or

(ii) any other person, to the Registrar aforesaid.

Explanation.—For the purposes of this clause, "person aggrieved" means in relation to section 11 or section 12, the registered society.

(b) Any person, who is refused admission to a registered society under clause (b) of sub-sectioin (2) of section 17 or who is aggrieved by any order of the liquidator under section 87, may appeal to the Registrar.

(3) Any appeal under sub-section (1) or sub-section (2) shall, subject to the other provisions of this Act, be preferred within two months from the date of the decision, order, award, refusal, registration or approval complained of, but the appellate authority may admit an appeal preferred after the said period of two months if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(4) In disposing of an appeal under this section, the appellate authority may, after giving the parties an opportunity of making their representations, pass such order thereon as the appellate authority may deem fit.

(5) The decision or order of the appellate authority on appeal shall be final.

(6) The appellate authority may pass such interlocutory orders pending the decision on the appeal as the appellate authority may deem fit.

(7) The appellate authority may award costs in any proceedings before the appellate authority to be paid either out of the funds of the registered society or by such party to the appeal as the appellate authority may deem fit.

97. *Revision.*—(1) The Registrar may of his own motion or on application call for and examine the record of any officer subordinate to him and the Government may of their own motion or on application call for and examine the record of the Registrar, in respect of any proceeding not being a proceeding in respect of which an appeal to the Tribunal is provided by sub-section (1) of section 96 to satisfy himself or themselves as to the regularity of such proceeding, or the correctness, legality or propriety of any decision passed or order made therein; and, if, in any case, it appears to the Registrar or the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, he or they may pass orders accordingly :

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Provided that every application to the Registrar or the Government for the exercise of the powers under this section shall be preferred within three months from the date on which the proceeding, decision or order to which the application relates was communicated to the applicant.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representations.

(3) The Registrar or the Government, as the case may be, may suspend the execution of the decision or order pending the exercise of his or their power under sub-section (1) in respect thereof.

(4) The Registrar or the Government may award costs in proceedings under this section to be paid either out of the funds of the society or by such party to the application for revision as the Registrar or the Government may deem fit.

98. *Review.*—(1) The appellant or the applicant for revision or the respondent may apply for the review of any order passed under section 96 or section 97 on the basis of the discovery of new and important facts which, after the exercise of due diligence were not then within his knowledge or could not be produced by him when the order was made, or on the basis of some mistake or error apparent on the face of the record or for any other sufficient reason :

Provided that no application for review shall be preferred more than once in respect of the same order.

(2) Every application for review shall be preferred within such time and in such manner as may be prescribed.

(3) The decision or order passed on the application in review shall be final.

(4) The authority competent to pass orders on an application for review may pass such interlocutory orders pending the decision on the application for review as that authority may deem fit.

(5) The authority referred to in sub-section (4) may award costs in any proceedings for review to be paid either out of the funds of the registered society or by such party to the application for review as it may deem fit.

99. *Execution of orders passed in appeal, revision or review.*—Any order passed by the Tribunal, the Registrar or the Government under sections 96, 97 or 98 shall be enforced by such authority and in such manner as may be prescribed.

100. *Bar of jurisdiction of civil courts.*—No order or award passed, decision or action taken or direction issued under this Act by an arbitrator, a liquidator, the Registrar or an officer authorized or empowered by him, the Tribunal or the Government or any officer subordinate to them, shall be liable to be called in question in any court.

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CHAPTER XIV.

OFFENCES AND PENALTIES.

101. *Punishment for furnishing false information or disobeying summons or other lawful order, requisition or direction.*—The committee of a registered society which, or an officer, employee, or a paid servant or any member of the society who wilfully makes a false return or furnishes false information, or any person who wilfully or without any reasonable excuse, disobeys any summons, requisition or other lawful order, or direction issued under the provisions of this Act, or who wilfully withholds or fails to furnish any information lawfully required from him by a person authorised in this behalf under the provisions of this Act, shall be punishable with fine which may extend to two hundred rupees.

102. *Punishment for acting in contravention of sections 32, 33 or 77.*—Any person who acts in contravention of sub-section (2) of section 32 or fails to deposit or entrust to custody, property subject to a prior charge in favour of any registered society when required to do so by the society under sub-section (3) of that section or who acts in contravention of clause (iii) of section 33 or sub-section (3) of section 77 shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees.

103. *Prohibition of the use of the word 'Co-operative' or its equivalent.*—(1) No person other than a registered society shall trade or carry on business under any name or title of which the word 'Co-operative' or its equivalent in any regional language is part without the sanction of the Government:

Provided that nothing in this sub-section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which the Co-operative Societies Act, 1912 (Central Act 11 of 1912) came into operation.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing offence with further fine of fifty rupees for each day on which the offence is continued after conviction therefor.

104. *Punishment for failure to give effect to decision or award in references.*—The Committee of any registered society or an officer or an employee or a paid servant thereof who fails to give effect to any decision or award under section 73 or where an appeal against such decision or award has been filed, to the order passed by the appropriate appellate authority, such decision or award or order not being a money decree, shall be punishable with fine which may extend to five hundred rupees.

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105. *Punishment for offences not otherwise provided for.*—Any registered society or any officer or member thereof or any other person guilty of an offence under this Act for which no punishment is expressly provided herein shall be punishable with fine not exceeding fifty rupees.

106. *Congnizance of offences.*—(1) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act.

(2) Every offence under this Act shall, for the purpose of the Code of Criminal Procedure, 1898 (Central Act V of 1898), be deemed to be non-cognizable.

(3) No prosecution shall be instituted under this Act without the previous sanction of the Registrar.

107. *Delivery of possession of records and properties of a registered society.*—(1) Where the committee of a registered society is reconstituted at a general meeting of the society, or is superseded by the Registrar and a special officer or managing committee is appointed under section 72 or where the society is ordered to be wound up and a liquidator is appointed under section 86 and such reconstituted committee, special officer, managing committee or liquidator is resisted in or prevented from, obtaining possession of the books, accounts, documents, securities, cash and other properties, whether movable or immovable, of the society (hereinafter in this section referred to as the records and properties of the society) by the committee which has been reconstituted or superseded or by the society which has been ordered to be wound up or by any person who is not entitled to be in possession of the records and properties of the society, any presidency magistrate or any magistrate of the first-class in whose jurisdiction the office of the society or the records and properties of that society is or are situated shall, on application by the reconstituted committee, special officer, managing committee or liquidator and on production of a certificate from the Registrar in the prescribed form setting forth that the committee of the society has been reconstituted or supreseded or that the society has been ordered to be wound up and that a special officer or managing committee or liquidator has been appointed as aforesaid direct delivery to the reconstituted committee, special officer, managing committee or liquidator of the possession of the records and properties of the society.

(2) No certificate shall be issued by the Registrar under sub-section (1) without making such inquiry as he deems necessary.

(3) for the purpose of the proceedings under sub-section (1), the certificate aforesaid shall be conclusive evidence that the records and properties to which it relates belong to the registerd society.

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(4) The presidency magistrate or the magistrate of the first class referred to in sub-section (1) may, pending disposal of an application for directing delivery to the reconstituted committee, special officer, managing committee or liquidator of the possession of the records and properties of the society mentioned in the certificate by the Registrar, appoint a Receiver to take possession of such records and properties or such portion thereof as may be necessary. The remuneration, if any, paid to the Receiver and other expenses incurred by him shall be paid out of the funds of the registered society concerned.

CHAPTER XV.

Miscellaneous.

108. *Attachment of property.*—Where the Registrar is satisfied on the application of a registered society in respect of a reference made to him under sub-section (1) of section 73 or on the application of a liquidator appointed under section 86 in respect of the proceedings of such liquidator for determining the contribution to be made by a person to the assets of the society under clause (*b*) of sub-section (2) of section 87 or on the application of the committee or liquidator or any creditor to the society or otherwise in respect of any inquiry ordered into the conduct of any person under section 71 that any party to the reference or the person, as the same may be, is about to dispose of or remove from the local limits of the jurisdiction of the Registrar the whole or any part of his property with intent to defeat or delay the execution of any decision that may be passed on the reference or of any order that may be passed against him by the liquidator or the Registrar, as the case may be, the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary and such attachment shall have the same effect as if it had been made by a competent civil court.

109. *Power to exempt societies from conditions as to registration.*—Notwithstanding anything contained in this Act, the Government may, by special order in each case and subject to such conditions, if any, as they may impose, exempt any society from any of the requirements of this Act as to registration

110. *Exemption of self-reliant societies.*—Nothing contained in section 19, or the second proviso to sub-section (1) or sub-section (2) of section 27 shall apply to any self-reliant society or class of self-reliant societies which complies with such conditions as the Government may, by general or special order, specify.

111. *Power to exempt registered societies.*—Without prejudice to the power conferred by section 110, the Government may, by general or special order, exempt any registered society from any of the provisions of this Act or may direct that such provisions shall apply to such society with such modifications as may be specified in the order.

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112. *Arbitrator in fixing compensation for lands acquired and the Tribunal to be civil courts.*—The arbitrator appointed under clause (b) of sub-section (1) of section 82 and the Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure 1908 (Central Act V of 1908), when trying a suit or when hearing an appeal.

113. *Delegation of powers of Government.*—(1) The Government may, by notification, authorize any authority or officer to exercise any of the powers vested in them by this Act except the power to make rules and may in like manner withdraw such authority.

(2) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification and also to control and revision by the Government or by such officer as may be empowered by the Government in this behalf. The Government shall also have power to control and revise the acts or proceedings of any officer so empowered.

114. *Saving of existing societies.*—(1) Every society now existing which has been registered under the Co-operative Credit Societies Act, 1904 (Central Act X of 1904), or under the Co-operative Societies Act, 1912 (Central Act I of 1912), or under the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932), shall be deemed to be registered under this Act, and its by-laws, shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded.

(2) Every society which has been registered under the law applicable to co-operative societies in the areas which formerly formed part of the State of Pudukkottai or in the Kanyakumari district or the Shencottah taluk of the Tirunelveli district or in the territories specified in the Second Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act 56 of 1959) shall, if the Registrar, by an order in writing, so declares, be deemed to be registered under this Act and its by-laws shall continue in force until they are altered or rescinded.

(3) All appointments, rules and orders made, notifications and notices issued and suits and other proceedings instituted under the Acts mentioned in sub-section (1) shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act.

115. *Acts of societies, etc., not to be invalidated by certain defects.*—No act of a registered society or any committee or of any officer of the society shall be deemed to be invalid merely on the ground—

(a) of any vacancy or defect in the organization of the society or the formation of the general body or the constitution of the representative general body or of the committees;

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(b) of any defect or irregularity in the election or appointment of a member of the committee or an officer of the society or of any disqualification of such member or officer; or

(c) of any defect or irregularity in such act or proceeding not affecting the merits of the case.

116. *Companies Act, 1956, not to apply.*—The provisions of the Companies Act, 1956 (Central Act I of 1956), shall not apply to registered societies.

117. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against any officer or servant of the Government for anything which is in good faith done or intended to be done under this Act or any rule or by-law made thereunder.

118. *Construction of references to Co-operative Societies Acts in enactments.*—All references to the Co-operative Societies Act, 1912 (Central Act II of 1912) or the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932) or the Travancore-Cochin Co-operative Societies Act, 1951 (Travancore-Cochin Act X of 1952), occurring in any enactment made by any authority in India and for the time being in force in the State of Madras shall in its application to the said State, be construed as references to this Act.

119. *Power to make rules.*—(1) The Government may, for the whole or any part of the State of Madras and for any registered society or class of such societies, make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications;

(b) subject to the provisions of section 5, prescribe the procedure to be followed when societies change their form of liability;

(c) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and abrogating by-laws, and the conditions to be satisfied prior to such making, alteration or abrogation;

(d) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members;

(e) provide for the payment to be made and the interests to be acquired before the exercise of the right of membership;

(f) regulate the manner in which funds may be raised by means of shares or debentures or otherwise;

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(*g*) prescribe in the case of a financing bank (i) the proportion of individual members to society members in the constitution of its general body or its committee, and (ii) the maximum number of members of its committee;

(*h*) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;

(*i*) provide for the appointment, suspension and removal of the members of the committee and other officers (not being a paid officer) and for the procedure at meetings of the committee and for the powers to be exercised and the duties to be performed by the committee and other officers;

(*j*) prohibit a society from appointing a defaulting member of any society to its committee or to the committee of any other society and allowing him to exercise his rights of membership in the society or to represent it in another society and vote;

(*k*) prescribe the accounts and books to be kept and maintained by a society;

(*l*) provide for the periodical publication of a balance-sheet showing the assets and liabilities of a society;

(*m*) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted, and in case of failure to submit any such return, for the levy of the expenses of preparing it;

(*n*) provide for the persons by whom and the form in which copies of entries in books of societies may be certified and for the charges to be levied for the supply of such copies;

(*o*) provide for the formation and maintenance of a register of members and, where the liability of the members is limited by shares, of a register of shares;

(*p*) provide for—

(i) the appointment of an arbitrator or arbitrators to decide disputes;

(ii) the procedure to be followed in proceedings before the Registrar, arbitrator or arbitrators or other person deciding disputes including the appointment of a guardian for a party to the dispute, who is a minor or who by reason of unsoundness of mind or mental infirmity is incapable of protecting his interests;

(iii) the levy of the expenses incidental to such proceedings; and

(iv) the enforcement of the decisions or awards in such proceedings;

(*q*) provide for the withdrawal of members and for the payments, if any, to be made to members who withdraw and for the liabilities of past members or the estates of deceased members;

(*r*) prescribe the prohibitions and restrictions subject to which societies may trade with persons who are not members;

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(*s*) provide for the mode in which the value of a deceased member's interest shall be ascertained and for the nomination of a person to whom such interest may be paid or transferred;

(*t*) prescribe the payments to be made and the conditions to be complied with my members applying for loans, the periods for which loans may be made and the amount which may be lent, to an individual member;

(*u*) provide for the formation and maintenance of reserve funds and the objects to which such funds may be applied and for the investment of any funds under the control of a society;

(*v*) prescribe the extent to which a society may limit the number of its members;

(*w*) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability and the maximum rate of dividend which may be paid by societies;

(*x*) prescribe the procedure to be followed by a liquidator appointed under section 86 and provide for the disposal of the surplus assets, if any, of the society;

(*y*) prescribe the procedure to be followed in presenting and disposing of all appeals and applications for revision and review under this Act and the fees to be paid in respect of such appeals and applications;

(*z*) prescribe the period for which and the terms under which aid may be given by the Government to societies and the terms under which the Government may guarantee the payment of interest on debentures issued or deposits received by societies;

(*aa*) provide for the custody of property attached under this Act;

(*bb*) provide for the issue and service of processes and for proof of service thereof;

(*cc*) provide for the levy of fees for granting certified copies of documents in the Registrar's office,

(*dd*) provide for the investigation of claims and objections that may be preferred against any attachment effected by the Registrar or any person empowered by him;

(*ee*) provide for the recovery of costs awarded against the Government in cases under section 71;

(*ff*) prescribe the procedure for the attachment and sale of property under section 91;

(*gg*) prescribed the procedure and the disposal of the business of the Tribunal; and

(*hh*) provide for all matters expressly required or allowed by this Act to be prescribed by rules.

(3) All rules made under this Act shall be published in the *Fort St. George Gazette* and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

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(4) Every rule made under this Act shall, as soon as possible after it is made, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

120. *Power of Government to give directions.*—(1) The Government may, by order, direct the Registrar to make an inquiry or to take appropriate proceedings under this Act in any case specified in the order; and the Registrar shall report to the Government in due course the result of the inquiry made or the proceedings taken by him.

(2) In any case, in which a direction has been given under sub-section (1), the Government may, notwithstanding anything contained in this Act, call for and examine the record of the proceedings of the Registrar and pass such orders in the case as they may think fit:

Provided that before passing any order under this sub-section, the person likely to be affected by such order shall be given an opportunity of making his representations.

121. *Repeals and savings.*—(1) The Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932), except so much of section 30 thereof as relates to the powers of the Central Government, and any law corresponding to this Act in force in the added territory or in the transferred territory immediately before the commencement of this Act including the Travancore-Cochin Co-operative Societies Act, 1951 (Travancore-Cochin Act X of 1952) (hereinafter in this section referred to as the corresponding law), shall stand repealed on such commencement.

(2) The repeal by sub-section (1) of the corresponding law shall not affect—

(i) the previous operation of the corresponding law or anything done or duly suffered thereunder; or

(ii) any right privilege, obligation or liability acquired, accrued or incurred under the corresponding law; or

(iii) any penalty, forfeiture or punishment incurred in respect of any offence committed against the corresponding law; or

(iv) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid: and any such investigation, legal proceeding or remedy may be instituted continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(3) Subject to the provisions of sub-section (2) anything done or any action taken, including any appointment or delegation made, notification, order, instruction or direction issued, or any rule, regulation or form framed, certificate granted or registration effected, under the corresponding law shall be deemed to have been done or taken under this Act and shall continue to have effect accordingly, unless and until superseded by anything done or any action taken under this Act.

(4) For the purpose of facilitating the application of this Act in the added territory or the transferred territory any court or other authority may construe this Act with such alterations not affecting the substance as may be necessary or proper to adopt it to the matter before the court or other authority.

(5) Any reference to the corresponding law in any law which continues to be in force in the added territory or the transferred territory after the commencement of this Act shall, in relation to that territory, be construed as a reference to this Act.

Explanation.—For the purpose of this section, the expression "added territory" shall mean the territories specified in the Second Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act 56 of 1959); and the expression "transferred territory" shall mean the Kanyakumari district and the Shencottah taluk of the Tirunelveli district.

122. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to them to be necessary for the purpose of removing the difficulty.

(2) Every order made under sub-section (1) shall, as soon as possible, after it is made, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session both Houses agree in making any modification in any such order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

T. HANUMANTHAPPA,
Secretary.

MINUTES OF DISSENT.

APPENDICES

I

Sub-clauses (3) and (4) of clause 28, as originally introduced provided that a member of the committee of a registered society shall not be eligible for re-election to the committee of that society until

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such period, not being less than two years as may be prescribed has elapsed after the expiry of the term of office of the committee of which he was a member and that a member of the committee who has held office for three or more terms successively immediately before the commencement of the Act shall not be eligible for election as a member for a further term immediately on the expiry of the term of office held by him. After much discussion in the committee, the committee amended it to the effect that no person shall be eligible for being elected or appointed as a member of a committee if he had held office as a member of the committee for two consecutive terms or if the duration of both those terms is less than six years, has held office for a period of six years, unless a period of two years has elapsed from the date on which his last term of office expired. It was also decided that no person shall at the same time be a member in more than five registered societies. The volume of evidence let in by witnesses was also to that effect. Curiously enough, at the final meeting of the Committee, held on 11th August 1961, it was decided by a majority verdict to delete sub-clause (1) (*g*) of clause 28. We entirely disagree with this decision, as it will retard the progress of the co-operative movement and will enable vested interests to exploit the movement as has been hitherto going on. We feel that the main object of the Bill has been defeated completely by this decision.

Madras, A. GOVINDASWAMY.
11*th* August 1961. K. MOOKIAH THEVAR.

II

Of all clauses in the Bill, item (*g*) of sub-section (1) of clause 28 of the Bill as redrafted by the Sub-Committee regarding disqualification for re-election to a committee for a period of two years from the date on which a member's last term of office expired if the member has held office as a member of a committee for two terms or has held office for a total period of six years, was the heart of the bill. After long discussion and deep consideration, the Select Committee came to the above conclusion, but on the request of some members the Chairman agreed to reopen the clause. One day was allotted for this clause for discussion. Finally with strong protest, it has been decided by the majority to omit the abovesaid item (*g*) of sub section (1) of clause 28 of the Bill.

Although there are minor changes in the Bill, the important sub-clause, that is the main reason for a new Bill in which public are interested has been removed. By removing this sub-clause, the same position as at present, that is, domination by one group in the co-operative movement will continue and there is no scope for poor and middle-class people to enter into the co-operative movement. So I highly object to omit item (*g*) of sub-section (1) of clause 28 of the Bill approved by the Sub-Committee of the Select Committee.

Madras, S. M. ANNAMALAI.
12th August 1961.

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III

" This is a bill seeking to improve the law relating to Co-operative Societies, in a progressive direction."

The Co-operative movement has grown to a considerable extent in recent years.

Although this movement has a long history, it has been a close preserve of vested interests. The foreign rulers used this movement only to dole out favours and positions for their favourites.

The struggle for freedom and the attainment of freedom, have given a different orientation to this movement, in the direction of promoting the welfare of the toiling people and for improving agricultural production.

The National Development Council in its resolution of November 1958 on Co-operative Policy, has assigned a very important role for the co-operative movement, especially in the sphere of agriculture and rural development.

The Seminar held in 1959 has stated : " Co-operation is thus a whole philosophy of life. It loses most of its significance, if we ignore its deeper moral and spiritual meaning and play up only its pecuniary benefits."

Thus an ideal has been set for this movement and for its future development, although the language used is a bit ambiguous.

No movement or reform would succeed only by relying on legislation. A legislation should only supply the necessary twigs for the creeper to climb and spread. The participation of the people is very important for this movement, especially the participation of toiling peasants and the working people. In this respect this bill, marks a big step forward, by limiting the restrictions on admission of new members.

Having widened the door for new admissions, the movement is bound to grow and would generate new contradictions, as the die-hards of the vested interests are still monopolising the key positions in the movement at district and State levels because the power of the big land-owners at the village levels continues.

The law and the administration of the law should be such as to aid the participation of the people in growing measure and curb the strangle hold of the vested interests.

Clause 17 deals with admission and qualification of members. The admission of members is, no doubt, liberalised, in so far as it restricts the powers of the managing committee to refuse admission. But to seek remedy against wilful discrimination, is made rather difficult due to the procedure. The Third Plan has a target of more than doubling the membership of primary village societies from 17·00 millions to 40·00 millions. Whether the liberalisation provided for in this clause would be far enough to achieve this target, is a point for consideration. The procedure laid down would only give rise to disputes and increase the files, without adequately solving the problem.

A very important clause of the bill is the one dealing with qualification and disqualification of membership of the committees (viz.), Clause 28.

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Originally there was a sub-clause to prohibit a person holding positions in the Managing Committees continuously for a period of more than six years.

The volume of evidence given before the Select Committee, emphasises the need for retaining such a provision. But unfortunately the majority of the members have decided to remove this clause from the Bill.

One of the objects of the bill it was claimed is to pump in new blood into the movement and to help the under-privileged and weak sections of the community to develop their inner strength and initiative. This object would be defeated or rendered difficult to realise, by the deletion of the sub-clause mentioned above. It is therefore essential in my opinion to retain this sub-clause.

It is because of this omission, I was compelled to submit a dissenting note.

But for these short-comings, the Bill on the whole is a welcome measure.

MADRAS, M. KALYANASUNDARAM.
12th August 1961.

APPENDIX VII.

[Vide item (3) presentation of reports on p. 45supra]

REPORT OF THE JOINT SELECT COMMITTEE ON THE MADRAS LAND REFORMS (FIXATION OF CEILING ON LAND) BILL, 1960 (L.A. BILL No. 8 OF 1960).

To

THE HON. THE LEGISLATIVE ASSEMBLY,
Madras.

The Joint Select Committee appointed to consider the Madras Land Reforms (Fixation of Ceiling on Land) Bill, 1960 (L.A. Bill No. 8 of 1960), has the honour to make the following report.

2. The Bill was published in English in Part IV-A of the *Fort St. George Gazette* Extraordinary, dated the 6th April 1960, and in Tamil in the *Fort St. George Gazette*, dated the 27th April 1960.

3. The Joint Select Committee was appointed by a resolution of the Assembly, dated the 20th April 1960, and of the Council, dated the 27th April 1960.

4. At its first meeting held at Madras on the 28th April 1960 the Committee elected Hon. Sri M. A. Manickavelu as Chairman and also decided to meet at Ootacamund for considering the Bill. Accordingly the Committee met from 21st to 24th May 1960 at 'Tamizhagam', Ootacamund, and there was a general discussion. It decided to prepare a questionnaire and to call for written memoranda from various individuals and associations interested in the

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Bill. It further decided that the draft of the questionnaire might be sent to the Members of the Committee for remarks. A Sub-Committee consisting of the following members was constituted to finalise the questionnaire taking into consideration the remarks of the members :—

(1) Sri V. K. Ramaswamy Mudaliar.

(2) Sri K. Balasubramania Iyer.

(3) Sri M. Kalyanasundaram.

(4) Sri M. P. Subramaniam.

(5) Sri P. G. Karuthiruman.

(6) Hon. Sri M. A. Manickavelu.

5. The Committee also decided that after receiving the replies to the questionnaire it might meet at convenient central places in each of the following five regions for the purpose of hearing the views of the individuals and associations interested in the Bill and also visit selected areas :—

(1) Tiruchirappalli—Thanjavoor—South Arcot districts.

(2) Tirunelveli—Kanyakumari districts.

(3) North Arcot—Chingleput districts.

(4) Coimbatore—Salem districts.

(5) Madurai—Ramanathapuram districts.

(6) Madras.

6. The Sub-Committee met at Madras on the 17th June 1960 and finalised the questionnaire * which consisted of 72 questions. About 1,000 copies were distributed to the public. Copies were printed in Tamil also and supplied to all those who applied for them. Opinions † were received from a number of individuals and institutions. About one hundred associations and institutions and seven thousand six hundred individuals including 5,309 persons representing the District Agriculturists' Association affiliated to the Tamil Nad Agriculturists' Association and another batch of 971 sent in their replies. Oral evidence was recorded by the Committee at meetings held outside Madras and in the City from 206 institutions and individuals.

7. The Committee met for the purpose of recording evidence at Chidambaram on the 19th and 20th September 1960, at Thanjavoor on the 21st and 22nd September 1960, at Tiruchirappalli on the 23rd and 24th September 1960, at Madurai on the 11th and 12th October 1960, at Nagercoil on the 14th October 1960, at Courtallam on the 15th October 1960, at Tirunelveli on the 16th October 1960, at Coimbatore on the 10th and 11th November 1960, at Salem on the 12th and 13th November 1960, at Tiruvellore on the 29th November 1960, at Padalam on the 30th November 1960, at Vellore on the 1st December 1960, at Tiruvannamalai on the 2nd December 1960 and at Madras on the 17th December 1960.

* Vide Appendix I.
† Printed separately.

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8. At its meeting held from the 20th to 29th April 1961 at Kodaikanal, the Committee considered the Bill clause by clause. It met again at Madras from 5th to 7th June 1961 and on the 12th August 1961 and has amended the various clauses of the Bill. The Committee met in all for 39 days. Important changes are noted below :—

Preamble.

The preamble as it stood in the Bill originally was brief and simply stated that it was expedient to provide for the fixation of ceiling on land holdings. The Committee decided that it should be amplified bringing out clearly that the legislation was in pursuance of the directive principles of State policy enumerated in clauses (*b*) and (*c*) of Article 39 of the Constitution, that the State should direct its policy towards securing that the ownership and control of the material resources of the community are distributed as best to subserve the common good and that the operation of the economic system should not result in the concentration of wealth and means of production to the common detriment. The preamble has been amplified accordingly.

Clause 2.

Chapter VII (Clauses 43 to 45) of the Bill provided that religious trusts may hold land not exceeding two hundred standard acres. The excess land could be acquired by the Government and the Government should pay to the trust every year a tasdik allowance. The Committee felt that though a ceiling could be fixed in the case of religious trusts also as in the case of individuals it was doubtful whether trusts could be prevented from acquiring in future property in excess of the ceiling area in view of the provision in Article 26 (*c*) of the Constitution. It, therefore decided that the Act need not be made applicable to religious trusts and that if necessary the Government may bring in a separate legislation for regulating the administration of the lands belonging to such trusts. A specific provision has, therefore, been made in clause 2 that the Act shall not apply to lands held by religious trusts of a public nature.

Clause 3.

Original Clause 2 of the Bill dealing with definitions has been re-numbered as Clause 3.

Sub-clause (1).—" Agriculture "—The definition of this expression as it stood was not comprehensive enough. The Committee decided that to ensure the effective enforcement of the provisions of the proposed measure all lands should be brought under the definition and the question of exempting particular type of lands could be considered separately. The definition has been amended accordingly.

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Sub-clause (2).—The terms "agricultural company" and "non-agricultural company" have been newly defined in sub-clause (2) as result of the decision of the Committee to treat agricultural companies and non-agricultural companies differently in certain respects under the provisions of the Bill.

Sub-clause (5).—" Authorized officer "—The definition originally limited the appointment to be made from among the officers of the Revenue Department. The Committee felt that there was no need to restrict the appointment to Officers of the Revenue Department only and decided that any Gazetted Officer could be appointed as authorized officer. The definition has been amended accordingly.

Sub-clauses (8), (9) *and* (10).—The terms 'company' 'creditor' and 'cultivating tenant' were not defined in the Bill. The Committee decided to have them defined. Accordingly the definitions have been newly added.

Sub-clause (14).—The definition of "family" as it stood in the original Bill meant an undivided Hindu family in the case of persons governed by Hindu Law and in other cases a group or unit, the members of which were by custom or usage joint in estate or residence. The Committee felt that there was no need to have such a distinction between Hindus and non-Hindus. The Committee therefore recommended that 'family' should mean the wife or husband, the minor sons and unmarried daughters and minor grand-sons and unmarried grand-daughters in the male line whose parents are dead subject to the condition that in the case of Hindus minor sons and minor grandson shall not include sons or grand-sons who have obtained a partition by means of a registered instrument.

The definition has, therefore, been recast accordingly.

Sub-clause (20).—In the light of the changes made in Chapter VII of the Bill consequential alterations have been made in the definition of "inam land".

Sub-clause (16) *and Chapter X of the original Bill.*—Instead of linking Kudiyirupou along with this legislation the Committee considered that separate legislation containing the provisions of Chapter X of the Bill as published might be brought in. Sub-clause (16) and Chapter X of the Original Bill have therefore been omitted.

Sub-clause (22).—" land "—The definition as it stood in the Bill included "horticultural" and "garden land". Pursuant to the decision taken on the definition of the expression "agriculture", the Committee decided to omit the expression "horticultural land" and "garden land" from this sub-clause. The definition has been amended accordingly.

Sub-clause (31).—Consequent on the changes made by the Committee in clause 8, the expression "notified date" has been newly defined.

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Sub-clause (32).—" orchard " has made some drafting changes in this sub-clause to make the intention more clear.

Sub-clause (33).—Item (*b*) (ii) of original sub-clause (26) included person who had no right to possession. The Committee felt that only those who had a right to possession should be brought into the picture as owners and decided to omit the item and to introduce in its place a new sub-item including in the definition the lessee of any leasehold village or his heir assignees, legal representatives or persons deriving rights through him. The definition has been amended accordingly.

Sub-clause (35).—" personal cultivation "—Under the sub-clause as it stood in the original Bill in the case of one who cultivated on his land by hired labour it would be deemed to be personal cultivation only if the owner exercised personal supervision. The Committee felt that in certain cases, for instance, students below 25 years of age, it might not be practicable for one to comply with the above requirement. The sub-clause has been modified accordingly.

Sub-clause (37).—The Committee considered that instead of the term " usufructuary mortgagee " it was better to have the expression " possessory mortgagee ". The definition has been amended accordingly.

Sub-clause (39).—In the definition of ' seaman ' the words ' a ship or sailing vessel ' have been substituted for the words " an Indian merchant ship ".

Sub-clause (40).—In view of decision of the Committee to allow members of family to hold separate property up to a certain limit the expression " separate property " has been newly defined and the definition of " stridhana " has been deleted.

Sub-clause (42).—" standard acre "—In the definition as it stood the classification of the lands for the purpose of fixing the " standard acre " land revenue to which the land was assessed was taken as the basis. As ' land revenue ' would include water cess, etc., the Committee decided that it should be taken to mean the basic ' land assessment ' and has accordingly amplified Explanation I making the position clearer.

The standard acre in some cases was expressed in fractions. The Committee decided that they should be expressed in decimals.

The Committee felt that there was much disparity between lands assessed to Rs. 4 and above but below Rs. 8 and therefore decided to have a new slab in between.

It also decided to add a new Explanation, viz., Explanation II indicating that " wet land " and " dry land " should include ' inam wet land ' and ' inam dry land ' respectively.

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In regard to areas served by new irrigation projects the Committee decided to fix the rates on the basis whether it was a single crop or double crop land and has modified Explanation III.

The sub-clause has been amended in the light of the above decisions.

Sub-clause (44).—Both ' factory ' and ' sugar factory ' had been defined in the original Bill. The Committee decided that there was no need to define a ' factory ' but that the definition of ' sugar factory ' should be amplified. The definition of " factory " has therefore been omitted. The definition of " sugar factory " has been amended and definitions of the terms " existing sugar factory " [sub-clause (13)] and ' new sugar factory ' [sub-clause (30)] have been added.

Sub-clause (47).—According to the definition " tenant " meant a person who contributed his own personal labour or that of any member of his family and included a person in possession after the termination of the tenancy agreement but excluded intermediaries. In view of the definition of " cultivating tenant " newly inserted, the definition has been amended suitably.

Sub-clause (48).—In the definition of ' tope ', the Committee decided that there should be specific mention of nut bearing trees. The definition has been amended accordingly. Certain drafting changes have also been made as in the definition of the term " orchard ".

Sub-clause (50).—" trust "—A new sub-clause defining ' trust ' has been added.

Clause 5.

Clause 4 of the original Bill fixed the ceiling area and also provided that the shares of an individual person or of a family in the lands held by a company, co-operative society, firm, etc., should be taken into account in calculating the extent of land held by such person or family. The Committee felt that there was difficulty in calculating the share of an individual or family in a non-agricultural company and therefore lands held by such company should not be taken into account in calculating the extent of land held by a person. Sub-clause (3) has been amended accordingly.

The three Explanations to sub-clause (3) provided the manner of calculation of share and the relinquishment of interest of a member of a family and of a widow. The Committee decided that a single Explanation covering the matter would be sufficient. Sub-clause (4) as it stood in the original Bill allowed female members of the family to retain stridhana property up to a certain extent. The Committee felt that all members should be allowed to retain separate property up to an extent of 10 standard acres subject to certain conditions. The provision and the ' Illustrations ' have been recast in the light of the above decision.

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Clause 6.

Clause 44 of the Bill provided that in cases where a trust has been created and any interest in the land or in the income from such land has been reserved in favour of the founder the authorized officer should exclude the extent of land proportionate to the interest reserved. The land so excluded should be taken into account in calculating the extent of land held by the founder of the trust. It was considered appropriate to have this clause in Chapter II dealing with ' fixation of ceiling '.

Clause 8.

The clause provided that a person holding land in excess of the ceiling area should furnish to the authorized officer within 90 days of the date of the publication of the Act, a return showing certain particulars about the land held by him. The Committee felt that it might not be possible for all persons to know the date of publication of the Act. It, therefore, decided that the return should be furnished from such date as may be specified in a notification to be issued by the Government in this behalf. The clause has been amended accordingly. Certain drafting changes have also been made.

Clause 9.

The clause provided that if a person had failed to furnish the return, the authorized officer could require the person to furnish the return or additional particulars within the time specified in the notice. The Committee decided that the authorized officer should be empowered to give further time not exceeding thirty days to furnish the return or the additional information. The Committee also decided that a specific provision should be made making it obligatory on the part of the authorized officer to pass orders on the representation and evidence. The clause has been amended accordingly.

Clause 10.

The Committee felt that specific instructions to the authorized officer as to how the ceiling area of a family has to be calculated should be incorporated in the clause itself. Accordingly sub-clause (2) provides that for the purposes of calculating the ceiling area of a family the authorized officer should take into account only those members who are alive on the notified date.

The Committee also decided that if any person has specified the particulars of the land which he desires to retain within his ceiling area the authorized officer should as far as practicable declare the same as comprised within his ceiling area. Sub-clause (4) gives effect to this decision.

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There was no provision in the Bill for the serving of a copy of the draft statement on a tenant. The Committee decided that provision should be made for this purpose. Sub-clause (5) gives effect to that decision. Certain drafting changes have also been made.

Clause 11.

Sub-clause (3) of clause 8 of the original Bill empowered the authorised officer to decide question regarding title of a person to any land which has not been finally decided by a competent court or other authority. The Committee decided that the authorized officer should not decide cases which were pending before the Land Tribunal. Sub-clause (1) gives effect to that decision.

The Committee also decided that if the authorized officer was of the opinion that the matter regarding title involved a decision on a substantial question of law or of fact he should for reasons to be recorded in writing refer the same to the Land Tribunal. Sub-clause (2) gives effect to this.

Sub-clause (4) of clause 8 of the original Bill provided that a suit would lie to the Land Tribunal against the order to the authorized officer to have it set aside. The Committee felt that provision should also be made for modifying the order. Sub-clause (3) gives effect to this.

Clause 12.

Sub-clause (5) of clause 8 of the Bill required the authorized officer to publish a final statement specifying the entire land held by every person holding land in excess of the ceiling area, the land to be retained by him and the land to be declared to be surplus land, etc. The above provision has been incorporated in clause 12 with necessary changes.

Clause 13.

Sub-clause (6) of clause 8 of the Bill provided that the land in respect of which any question of title is pending before a competent court should also be excluded from the calculation of ceiling area. The Committee decided that lands in respect of which similar questions of title are pending before the Land Tribunal or other authority should also be excluded. The above provision has been incorporated in clause 13 with necessary changes.

Clause 14.

Sub-clause (7) of clause 8 of the Bill made it obligatory on the authorized officer to amend the final statement or prepare the final statement in accordance with the decisions of the court or other authority or the Land Tribunal. The Committee decided that a final statement has to be prepared in respect of lands in respect of which any question of title was decided by the Court or the Land Tribunal or other authority. Necessary provision has been made in clause 14.

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Clause 15.

There was no provision in the Bill empowering the authorized officer to rectify bona fide mistakes and clerical errors. The Committee decided that provision should be made for the same. Clause 15 gives effect to that.

Clause 16.

Clause 10 of the original Bill provided that where the land declared as surplus land is held by an usufructuary mortgagee the possession of the land should revert to the mortgagor.

This clause did not cover cases where the total holding of the possessory mortgagor was in excess of the ceiling area and where he desired the land mortgaged by him or any part thereof to be included within his ceiling area. The Committee decided that in such cases the extent of land as desired by the possessory mortgagor should revert to him provided that the land so reverted together with the other land held by him did not exceed the ceiling area.

The Committee felt that in cases where no agreement could be reached in respect of the mortgage money and the authorized officer was of the opinion that the question involved a substantial question of law or of fact the matter should be referred to the Land Tribunal. Clause 16 gives effect to the above decisions.

Clause 17.

Clause 11 of the Bill provided that where any land held by a tenant was in excess of the ceiling area but where the land in such excess was held by another person as land-owner, the possession of such excess land should revert to the land-owner. The Committee decided that the possession should revert with effect from the date of publication of the final statement. Necessary provision has been made in clause 17.

Clause 18.

Clause 12 of the original Bill provided for the manner of acquisition of surplus land together with trees, buildings, etc. The clause also required the authorized officer to have a copy of the notification relating to the taking over of the surplus land for a public purpose, to be served on such persons who in the opinion of the Government were interested in the land. The Committee considered that it was not necessary for each case to be taken to the Government and therefore decided that the copy of the notification may be served on persons whose names appear in the final statement and such other persons as may be specified in the rules made by the Government.

The Committee also decided that provision should be made empowering the Government to make rules specifying the classes of tenants who might be allowed to continue in possession of the land and also permitting co-operative societies, land mortgage banks and agricultural companies to continue in possession of land in excess of ceiling area even after the publication of the notification. Clause 18 gives effect to those decisions.

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Clause 19.

This is a new clause and according to this no document relating to transfer of land can be registered unless the transferee gives a written declaration as to the extent of land held by him. It also makes it obligatory on the registering authority to send a copy of such declaration to the authorized officer for taking necessary action.

Clause 20.

This clause combines the provisions of clauses 30 and 31 of the original Bill. According to this if as a result of a transfer either by sale or gift, etc., effected on or after the notified date a transferee gets lands in excess of the ceiling area then it would be considered as a contravention of the provision of clause 7 and the penalty for the same is that the right, title, etc., in the land in excess of the ceiling area will stand transferred to Government.

Clause 21.

Clause 32 of the original Bill provided that if after the date of publication of the proposed Act any person acquires by inheritance or bequest any land which together with the land, if any, already held by him would exceed in the aggregate the ceiling area he should within ninety days furnish a return. The Committee considered that in this case one should be required to furnish the return if the land is acquired on or after the date of the commencement of the Act instead of after the publication of the Act. Clause 21 makes provision accordingly. It also provides for the furnishing of a return in the case of lands acquired by sale in execution of a decree or order of a Civil Court or of an award or an order of any other lawful authority on or after the date of commencement of the Act and before the notified date. An Explanation has been added in this clause to the effect that bequests should include gifts made in contemplation of death. A provision has also been inserted for the furnishing of return in cases where the extent of land exceeds ceiling area as a result of marriage or adoption.

Clause 22.

Clause 33 of the original Bill provided that after the date of the publication of the Bill but before the date of publication of the proposed Act, if any person transferred or partitioned any land held by him in order to defeat the provisions of the Act then the authorized officer could declare such transfer or partition as void. The Committee decided that the crucial date should be the notified date. The above decision has been incorporated in clause 22.

Clause 23.

Clause 34 of the original Bill provided that no land should except with the permission of the authorized officer be transferred by sale or by gift, exchange or surrender or be subdivided whether

by partition or otherwise till a final order is passed. The Committee has modified this clause providing that the authorized officer should not take into consideration such transfers or subdivisions effected on or after the notified date and before the date of publication of the final statement.

Clause 24.

Clause 13 of the original Bill provided for the constitution of the Land Board. According to the clause as it stood in the Bill the Secretary to the Board of Revenue was to be the Secretary to the Land Board. The Committee has decided that the Secretary shall be any Gazetted Officer nominated by the Government.

The clause in the Bill also provided that any member of the Land Board who was absent from three consecutive ordinary meetings of the Board should be deemed to have vacated his seat. The Committee considered that the period of absence may be three consecutive months reckoned from the date of the commencement of his term of office or of the last meeting which he attended as the case may be or if within the said period less than three meetings have been held, absence from three consecutive meetings held after the said date. Necessary changes have been made accordingly in the clause.

Clause 28.

Clause 17 of the original Bill specified the matters which the Land Board should take into consideration in deciding whether to grant or refuse to grant permission to acquire land for dairy farming or livestock breeding. The Committee felt that the expression ' the interest of the public generally ' should be modified making it specific that the interest that will be served by the development of dairy farming or livestock breeding should be taken into consideration. The Committee also decided that the land already owned by the applicant for the purpose of cultivation should also be taken into account. Clause 28 gives effect to these decisions.

Clause 32.

Clause 21 of the original Bill specified the matters which the Land Board should take into consideration in deciding whether to grant or refuse to grant permission to hold or acquire any land for the extension of any plantation. The Committee felt that provision should be made to take into consideration the ancillary purposes of plantation. Clause 32 embodies the above provision. Incidentally definition of " ancillary purposes of the plantation " has also been added in clause 3.

Clause 35.

This is clause 24 of the original Bill. A new sub-clause has been added providing that no members of the Board should vote on or take part in the discussion of any question before the Board if that question is one in which he is directly or indirectly interested.

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Clause 36.

The Committee decided that provision should be made empowering the Land Board to rectify bona fide mistakes and clerical errors. Provision to that effect has been made in this clause.

Clause 38.

Clause 35 of the original Bill provided for the constitution of the Sugar Factory Board, etc. According to that clause one of the members should be a judicial officer who is, or a person who has been a judge of a High Court nominated by the Government. The Committee decided that a judicial officer who is qualified for appointment as a Judge of a High Court could also be nominated as a member. The clause as it stood provided that the Director of Agriculture should be the Secretary of the Board. The Committee decided that the Director of Agriculture should also be the member of the Board. Necessary provision has been made in clause 38. The same provisions as were introduced in clause 24 relating to Land Board regarding vacation of seat due to non-attendance at meetings have been introduced in this clause also.

Clause 40.

Clause 37 of the original Bill provided for the decision of the Sugar Factory Board granting or refusing permission to any Sugar Factory which desired to hold land. The Committee decided that it should be made obligatory on the Sugar Factory Board to permit a Sugar Factory to hold the land held by it even as a possessory mortgagee.

Clause 42.

This is a new clause relating to the application by any existing or new sugar factory for future acquisition of land and the particulars that are to be furnished in that application.

Clause 43.

This is a new clause prescribing the procedure to be followed by the Sugar Factory Board in granting permission for future acquisition of lands by sugar factories.

Clause 44.

This is a new clause providing for matters to be considered by the Sugar Factory Board when granting or refusing permission under Clause 43.

Clause 47.

Provision regarding prohibition of members having interest in the question before the Board from voting or taking part in the proceedings have been introduced as a new sub-clause.

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Clause 48.

There was no provision in the original Bill empowering the Sugar Factory Board and the Sugar Factory Tribunal to rectify bona fide mistakes and clerical errors. The Commitee decided that both the Board and the Tribunal should have such power. Necessary provision has been made in the clause.

Clause 50.

Clause 26 of the original Bill provided for the determination of compensation for land acquired by the Government. There was no provision about the time within which a person claiming compensation should prefer his claim. The Committee decided that the period should be prescribed. There was also no provision with regard to the period within which the objection to the draft compensation assessment roll could be preferred. The Committee decided that provision should be made for the purpose. Necessary provisions have been made in Clause 50.

Clause 51.

Clause 28 of the Bill provided for satisfaction of the claims of the mortgagee or charge holder in respect of the surplus lands acquired by Government. The Committee decided that if the authorized officer was of the opinion that the decision of a claim involved a substantial question of law he should refer the claim to the Land Tribunal for decision. Necessary provision has been made in Clause 51.

Clauses 52 *and* 53.

These are two new clausse dealing with the claims of limited owner and maintenance holder on surplus land. In the case of limited owner the amount of compensation will be kept in deposit before such authority as may be prescribed and the interest accorded would be paid to the person who would for the time being, have been entitled to the possession of the land.

The compensation amount in the case of maintenance holder should also be kept in deposit before such authority as may be prescribed.

Clause 55.

Clause 27 of the Bill provided that the amount of compensation shall be paid in bonds payable in 20 equal annual instalments and shall carry interest at 5 per cent per annum. This clause has been modified providing that the amount of compensation shall be paid either in cash or in bonds or partly in cash and partly in bonds. The bonds shall be issued on such terms and carry such rate of interest as may be prescribed.

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CHAPTER VII.

Chapter VIII of the original Bill imposed certain restrictions in regard to transfer of inam lands till the effecting of ryotwari settlement in those areas. The Committee decided that there need be no distinction as between inam lands and other lands in areas other than the transferred territory and that in the caes of inam lands, land revenue based on nearest ryotwari classification should be adopted and ceiling fixed accordingly. Therefore the Chapter has been recast retaining only provisions relating to survey and settlement of lands in the transferred territory.

Clauses 59 and 60.

These are new clauses providing that no cultivating tenant should be evicted from his holding at the instance of the land owner and that if any land owner wants to evict he can do so only under the conditions laid down in Clause 60.

Clause 61.

Clause 57 of the original Bill provided that any land owner who is not assessed to any sales tax, profession tax or income-tax during 1956-57 or 1957-58 may resume land up to five standard acres for personal cultivation. The Committee decided that a land owner who held land not exceeding five standard acres and is not assessed to income-tax for the previous year might for five years after two years from the date of publication of the Act resume possession from the cultivating tenant for purposes of personal cultivation of land not exceeding five standard acres, including any land held by him already under his personal cultivation and any other land the possession of which reverted to him under Clause 17. Necessary provision has been made in Clause 61.

Clause 62.

This provides that a land owner who held land not exceeding five standard acres on the date of the commencement of the Act may before the expiry of two years from the notified date resume land up to an extent of three standard acres inclusive of other lands if any under his personal cultivation and lands the possession of which reverted to him under Clause 17.

Clause 63.

This clause provides that in cases where the extent of land held by a person as owner together with any land held by him as cultivating tenant exceeds five acres any land owner under whom such cultivating tenant is holding land may resume possession of his land in such excess for the purpose of personal cultivation.

Clauses 64, 65, 66 and 68.

The committee decided that tenant should mean a cultivating tenant. Necessary changes have been made in the above clauses.

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Clause 67.

This is a new clause providing that a cultivating tenant who holds on the notified date any land in excess of five standard acres partly as owner and partly as cultivating tenant or wholly as cultivating tenant should furnish to the authorized officer a return containing certain particulars.

Clause 69.

Clause 63 of the original Bill has been redrafted to make it clear that the existing tenancy laws, in so far as they are not inconsistent with any of the provisions of the proposed Act shall continue in force.

Clause 70.

Clause 69 of the original Bill enumerated the lands which were exempt from the provisions of the proposed Act. The Committee decided that lands held by co-operative societies which were not registered according to Madras Act or Travancore-Cochin Act but which are approved by the Government should be exempted. It also felt that land owned by any industrial or commercial undertaking which in the opinion of the Government *bona fide* carries on any industrial or commercial operation approved by the Government may also be exempted. Further it decided that any land used exclusively for growing fuel trees should also be exempted. Necessary provision has been made in Clause 70.

In view of the provision made in clause 18 (5) of the Bill, for the making of rules permitting co-operative societies registered under the Madras and Travancore-Cochin Acts and Land Mortgage Banks to continue in possession of land in excess of ceiling area the reference to such societies and banks have been omitted from this clause.

Clause 71.

Clause 70 of the original Bill provided that it would be lawful for any person to hold or to acquire in addition to the ceiling area, land exclusively used for grazing up to an extent of 50 acres. The committee decided that if a person held such grazing lands at the commencement of the Act such land should be exempted. Necessary provision has been made in Clause 71.

Clause 72.

This is a new clause providing that if the Land Board decides that exempted grazing lands have become fit for cultivation as a result of any Irrigation Project constructed at the cost of Government such land should be taken into account for calculating the ceiling area of the person holding such lands.

Clause 74.

Clause 72 of the original Bill dealt with the jurisdiction and powers of Land Tribunals. The Committee had decided that the

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authorized officer should refer certain matters to the Land Tribunal for decision. Necessary provision has been made in Clause 74 that the Land Tribunal should decide such matters also.

Clause 77.

This is a new clause providing that certain provisions of the Limitation Act shall apply to appeals under Clauses 75 and 76.

Clauses 82 *to* 86.

Clause 79 of the Bill provided for penalty for failure to furnish return or for furnishing any return which the person concerned knew or had reason to believe that to be false.

The committee decided that the penalty for continuing offence should be enhanced. It has also inserted certain new clauses providing penalties for certain matters.

Clause 87.

Clause 80 of the original Bill provide two hundred rupees as penalty for contravening any lawful order. The committee decided that the penalty should be increased to five hundred rupees. Necessary provision has been made in Clause 87.

Clause 88.

Clause 81 of the original Bill provided penalty for cutting trees or removing any building, machinery, plant or apparatus constructed, erected or fixed on the land acquired by the Government. Committee decided that the removal, etc., of building, machinery, etc., should be an offence only when such buildings, etc., were used for agricultural purposes. It also decided that the fine to be imposed should be not exceeding one thousand rupees. Necessary provision has been made in Clause 88.

Clause 91.

Clause 84 of the original Bill empowered the Government to make rules providing for the manner in which any land acquired by the Government should be disposed of. The committee decided that while framing rules the objects specified in the preamble should be taken into consideration. It further held that persons whose holdings have been reduced below three standard acres should be given preference along with those who are completely dispossessed. Necessary provision has been made in Clause 91.

Clause 94.

Clause 87 of the original Bill provided for the appointment of Land Commissioner. The committee recommended that a member of the Board of Revenue should be appointed as Land Commissioner. Necessary provision has been made in Clause 94.

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Clause 99.

This is a new clause empowering the authorized officer to require any person to furnish any information relating to the extent of land held by him and other particulars.

Clause 107.

Clause 99 of the original Bill empowered the Government to make rules in respect of the matter specified in the clause. The committee decided that the Government should be empowered to make rules for the manner of publication of a proclamation in any language applicable to the concerned area for the acquisition of surplus land under Clause 18 (2) and for prescribing the qualifications for the two members to be nominated by the Government under Clause 24 (2) (*d*). It also decided that the authority or officer before whom compensation may be kept in deposit and also the manner of payment of the amount of compensation so deposited to the persons entitled thereto should also be prescribed. Necessary provisions have been made in Clause 107.

Clause 109.

Clause 101 of the original Bill provided that all rules except those framed under Clause 84 and orders issued under Clause 100 should be placed on the Table of the Legislature and should be subject to such modification by way of amendment or repeal as the Legislature may make. The committee decided that the model clause recommended by the Subordinate Legislation Committee should be adopted. Necessary changes have been made in Clause 109.

Schedule I.

The Schedule in the original Bill specified only the whole of the Nilgiris district, Kodaikanal taluk and Yercaud sub-taluk as hill areas. The committee felt that there were other hill areas in the State and that they should also be specified. Accordingly other areas have been added to this Schedule.

Schedule III.

Schedule III of the Bill defines fair rent and also prescribes the principles on which the compensation has to be determined in respect of any surplus land acquired by the Government. The slab rates for determining compensation have been recast on the lines of provisions for calculation of agricultural income-tax. Paragraph 9 of the Schedule provided that in the transferred territory 80 per cent of the amount of compensation should be paid in advance. The committee decided that only 75 per cent of the compensation need be paid in advance. The Schedule has been altered suitably. Consequent on the decision of the committee to treat inam lands on par with other lands, the provisions contained in original Schedule VI relating to compensation in respect of inam lands, lands in lease-hold villages and land exempt from payment of land revenue have been omitted and consequential changes have been made in this Schedule. Provision has also been made for determining compensation in respect of lands the reevnue of which or portion thereof has been assigned.

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Schedule IV.

Schedule IV in the Bill provided the basis of compensation payable to any tenant and it also laid down that the compensation should be apportioned equally between the tenant and the intermediary. The committee decided that three-fourths of the compensation should be paid to the cultivating tenant and one-fourth to the intermediary. The Schedule gives effect to the decision.

Schedule V of the Bill which prescribed the rate of tasdik allowance payable to any trust has been deleted in view of the committee's decision that this Bill should not apply to religious trusts.

9. Some verbal and consequential alterations have been incorporated in the Bill.

10. A copy of the Bill as amended by the Joint Select committee is annexed.

11. The committee considers that the changes made by it are not of such important character as to require the republication of the Bill.

12. Some of the Members have given minutes of dissent which are appended.*

FORT ST. GEORGE, MADRAS, M. A. MANICKAVELU,
Dated 16th August 1961. *Chairman.*

* Vide Appendix II.

Appendix.

THE MADRAS LAND REFORMS (FIXATION OF CEILING ON LAND) BILL, 1960 (L.A. BILL No. 8 OF 1960) (AS AMENDED BY THE JOINT SELECT COMMITTEE).

(Vide paragraph 10 of the Report.)

Arrangement of Clauses.

CHAPTER I.

PRELIMINARY.

Clauses.

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CHAPTER II.

Fixation of Ceiling on Land Holdings.

Clauses.

5. Ceiling area.

6. Basis of calculation of the extent of land held by the founder of a trust.

7. Ceiling on holding land.

8. Furnishing of return by person holding land in excess of 30 standard acres.

9. Collection of information.

10. Preparation and publication of draft statement as regards land in excess of the ceiling area.

11. Authorized officer to decide question of title in certain cases.

12. Publication of final statement.

13. Exclusion of certain land from calculation of ceiling area.

14. Amendment of final statement in certain cases.

15. Power to rectify *bona fide* mistakes and clerical errors.

16. Possession of land held by possessory mortgagee to revert to the possessory mortgagor in certain cases.

17. Possession of land held by tenant to revert to the landowner in certain cases.

18. Acquisition of surplus land.

CHAPTER III.

Ceiling on future Acquisition and Restriction on Certain Transfers.

19. Declaration to be made before the registering authority in certain cases.

20. Penalty for future acquisition in contravention of section 7.

21. Ceiling on future acquisition by inheritance, bequest or by sale in execution of decree, etc.

22. Transfer or partition made on or after the date of the commencement of this Act, but before the notified date.

23. Authorized officer not to take into consideration certain transfers or subdivisions before publication of final statement.

CHAPTER IV.

Constitution and Functions of the Land Board.

24. Constitution of the Land Board.

25. Functions of the Land Board.

26. Application to the Land Board for future acquisition of land for dairy farming or livestock breeding

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Clauses.

27. Decision of the Land Board in respect of land to be used for dairy farming or livestock breeding.

28. Matters to be considered by the Land Board when granting or refusing permission under section 27.

29. Cancellation of permission granted under section 27.

30. Application to the Land Board for future acquisition of land interspersed among or contiguous to any plantation.

31. Decision of the Land Board in respect of land interspersed among or contiguous to any plantation.

32. Matters to be considered by the Land Board in granting or refusing permission under section 31.

33. Cancellation of permission granted under section 31.

34. Decision of the Land Board to be final.

35. Meetings of the Land Board.

36. Power of Land Board to rectify *bona fide* mistakes and clerical errors.

37. Act of Land Board not to be invalidated by informality.

CHAPTER V.

Constitution and Functions of the Sugar Factory Board.

38. Constitution of the Sugar Factory Board.

39. Functions of the Sugar Factory Board.

40. Decision of the Sugar Factory Board in respect of land to be used for cultivation of sugarcane.

41. Matters to be considered by the Sugar Factory Board when granting or refusing permission under section 40.

42. Application by any existing or new sugar factory for future acquisition of land.

43. Decision of the Sugar Factory Board in respect of land to be acquired by existing or new sugar factory.

44. Matters to be considered by the Sugar Factory Board when granting or refusing permission under section 43.

45. Cancellation of permission.

46. Decision to be final in certain cases.

47. Meetings of the Sugar Factory Board.

48. Power of Sugar Factory Board and Sugar Factory Tribunal to rectify *bona fide* mistakes and clerical errors.

49. Act of Sugar Factory Board not to be invalidated by informality.

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CHAPTER VI.

COMPENSATION.

Clauses.

CHAPTER VII.

SURVEY AND SETTLEMENT OF LANDS IN THE TRANSFERRED TERRITORY.

CHAPTER VIII.

GENERAL PROVISIONS REGARDING TENANCIES.

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CHAPTER IX.

EXEMPTIONS.

Clauses.

CHAPTER X.

LAND TRIBUNALS.

CHAPTER XI.

APPEALS AND REVISION.

CHAPTER XII.

PENALTIES AND PROCEDURE.

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CHAPTER XIII.

Disposal of Land acquired by the Government under this Act.

Clauses.

91. Disposal of land acquired by the Government.

CHAPTER XIV.

Miscellaneous.

92. Conversion of one kind of land into another not to affect ceiling area in certain cases.

93. Decrease in number of members of family not to affect ceiling area.

94. Appointment of Land Commissioner.

95. Power of Government to issue orders and directions to the authorized officer, etc.

96. Transfer of proceedings from one authorized officer to another.

97. Returns and reports.

98. Authorized officer empowered to obtain information from Court, etc.

99. Authorized officer empowered to obtain information from persons.

100. Costs.

101. Power to enter upon land.

102. Indemnity.

103. Preparation of record of rights.

104. Bar of jurisdiction of civil courts.

105. Court-fees.

106. Delegation of powers.

107. Power to make rules.

108. Power to remove difficulties.

109. Rules and orders to be placed before the Legislature.

SCHEDULE I.

SCHEDULE II.

SCHEDULE III.

SCHEDULE IV.

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THE MADRAS LAND REFORMS (FIXATION OF CEILING ON LAND) BILL, 1960 (L.A. BILL No. 8 OF 1960) (AS AMENDED BY THE JOINT SELECT COMMITTEE).

[*Note.*—The changes made are side-lined or underlined and the portions omitted are indicated by dots.]

A Bill to provdie for the fixation of ceiling on agricultural land holdings and for certain other matters connected therewith in the State of Madras.

WHEREAS under clauses (*b*) and (*c*) of Article 39 of the Constitution of India, the State should, in particular, direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good and that the operation of the economic system does not result in the concentration of wealth and mean of production to the common detriment;

AND WHEREAS the area of agricultural land available for cultivation in the State is limited;

AND WHEREAS there is great disparity in the ownership of agricultural land leading to the concentration of such land in the hands of certain persons;

AND WHEREAS it is necessary to reduce such disparity in the ownership of agricultural land in the State;

AND WHEREAS it is necessary to fix a ceiling on the agricultural land holdings;

AND WHEREAS it is necessary to acquire the agricultural land in excess of the ceiling area and to distribute such land to the landless and other persons among the rural population;

AND WHEREAS such distribution will best subserve the common good, increase agricultural production and promote justice, social and economic;

AND WHEREAS it is expedient to provide for all these and other matters connected therewith;

BE it enacted in the Twelfth Year of the Republic of India as follows :—

CHAPTER I.

PRELIMINARY.

1. *Short title and extent.*—(1) This Act may be called the Madras Land Reforms (Fixation of Ceiling on Land) Act, 1961.

(2) It extends to the whole of the State of Madras.

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2. *Act not to apply to lands held by religious trusts.*—Subject to the provisions of section 6, nothing contained in this Act shall apply to lands held by religious trusts of a public nature.

3. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) " agriculture " includes—

(*a*) horticulture;

(*b*) the raising of crops, grass or garden produce;

(*c*) the use by an agriculturist of land held by him, or part thereof, for grazing;

(*d*) the use of any land for the purpose of raising manure crops;

(*e*) dairy farming;

(*f*) poultry farming;

(*g*) livestock breeding;

(*h*) growing of trees;

and " agricultural " shall be construed accordingly;

(2) " agricultural company " means any company formed for the purpose of carrying on any business that has for its main object the acquisition of gain by the company from agricultural land and " non-agricultural company " means any other company;

(3) " agricultural year " means the year commencing on the 1st day of April, or, in respect of the whole or a part of any district on such other date as the Collector of the district may specify in that behalf by notification in the District Gazette;

(4) " ancillary purposes of the plantation " includes replanting;

(5) " authorized officer " means any Gazetted Officer authorized by the Government by notification to exercise the powers conferred on, and discharge the duties imposed upon, the authorized officer under this Act for such area as may be specified in the notification;

(6) " Bhoodan Yagna " and " Gramdan land " shall have the same meaning as in clauses (*a*) and (*d*) respectively of section 2 of the Madras Bhoodan Yagna Act, 1958 (Madras Act XV of 1958);

(7) " ceiling area " means the extent of land which a person is entitled to hold under section 5;

(8) " company " means a company as defined in section 3 of the Companies Act, 1956 (Central Act 1 of 1956);

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(9) " creditor " means a secured creditor and includes any decree-holder who has obtained an attachment of land in execution of a decree or order;

(10) " cultivating tenant " means a person who contributes his own physical labour or that of any member of his family in the cultivation of any land belonging to another, under a tenancy agreement, express or implied, and includes any such person who continues in possession of the land after the determination of the tenancy agreement or the heirs of such person, but does not include a mere intermediary or his heirs;

(11) " date of the commencement of this Act " means the date on which the Madras Land Reforms (Fixation of Ceiling on Land) Bill, 1960 was first published in the *Fort St. George Gazette*, namely, the 6th day of April 1960;

(12) " date of the publication of this Act " means the date of the publication of this Act in the *Fort St. George Gazette*;

(13) " existing sugar factory " means any sugar factory which was in existence on the date of the commencement of this Act;

. . .

(14) " family " in relation to a person means the person, the wife or husband, as the case may be, of such person, and his or her—

(i) minor sons and unmarried daughters, and

(ii) minor grandsons and unmarried grand-daughters in the male line, whose father and mother are dead.

Explanation.—For the purpose of this clause, in the case of persons governed by Hindu Law, " minor sons " and " minor grandsons " shall not include sons or grandsons between whom and the other members of the family a partition by means of a registered instrument has taken place before the date of the commencement of this Act;

(15) " forest land " includes any waste land containing trees or shrubs;

(16) " full owner " means a person entitled to the absolute proprietorship of land;

(17) " Government " means the State Government;

(18) " hill area " means any local area specified in column (3) of Schedule 1 and such other local area comprising a hill as the Government may, by notification, from time to time, specify;

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(19) " to hold land " with its grammatical variations and cognate expressions means to own land as owner or to possess or enjoy land as possessory mortgagee or as tenant or as . . . intermediary or in one or more of those capacities;

(20) " inam land " in any area in the State except the transferred territory—

(a) means any land the grant of which in inam has been made, confirmed or recognized by the Government, and

(b) includes—

(i) any land in any lease-hold village;

(ii) any land which is exempt either in whole or in part, from . . . payment of land revenue . . . ; and

(iii) any inam constituting an estate under the Madras Estates Land Act, 1908 (Madras Act I of 1908); but does not include any inam land on which full assessment of revenue has been levied under the Madras Inams (Assessment) Act, 1956 (Madras Act XL of 1956);

(21) " intermediary " means any person who, not being an owner or a possessory mortgagee, has an interest in land, and is entitled, by reason of such interest, to possession thereof, but has transferred such possession to others;

. . . .

(22) " land " means agricultural land, that is to say, land which is used or capable of being used for agricultural purposes or purposes subservient thereto and includes . . . forest land, . . . pasture land, plantation and tope but does not include house-site or land used exclusively for non-agricultural purposes;

(23) " Land Board " means the Madras Land Board constituted under section 24;

(24) " Land Commissioner " means the Land Commissioner appointed under section 94;

(25) " land owner " means the owner of the land let for cultivation by a tenant and includes the heirs, assignees, legal representatives of such owner or persons deriving rights through him;

(26) " Land Tribunal " means a Land Tribunal constituted under section 73;

(27) " lease-hold village " means any village . . . . specified in column (4) of Schedule II and such other village or part thereof as the Government may, by notification from time to time, specify;

(28) " limited owner " means any person entitled to a life estate in any land and includes persons deriving rights through him;

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(29) " member of the Armed Forces " means a person in the service of the Air Force, Army or Navy of the Union of India and includes a seaman :

Provided that if a question arises whether any person is a member of the Armed Forces, such question shall be decided by the Government and their decision shall be final;

(30) " new sugar factory " means any sugar factory which has come or comes into existence on or after the date of the commencement of this Act;

(31) " notified date " means the date specified in the notification issued by the Government under sub-section (1) of section 8;

(32) " orchard " means an enclosure or assemblage of fruit or nut-bearing trees, constituting the main crop therein, whether of spontaneous or artificial growth but does not include trees on such bunds as are not within or adjunct to such enclosure or assemblage;

(33) " owner "—

(*a*) means—

(i) any person holding land in severalty or jointly or in common under a ryotwari settlement or in any way subject to the payment of revenue direct to the Government, or

(ii) a landholder as defined in the Madras Estates Land Act, 1908 (Madras Act I of 1908), or a ryot as defined in that Act, or

(iii) an inamdar not being a landholder defined as aforesaid, and

(*b*) includes—

(i) full owner or limited owner, or

(ii) the lessee of any lease-hold village or his heirs, assignees, legal representatives or persons deriving rights through him;

(34) " person " includes any trust, company, family, firm, society or association of individuals, whether incorporated or not;

(35) " personal cultivation " means cultivation of . . . land by its owner—

(i) by his own labour, or

(ii) by the labour of any member of his family, or

(iii) by hired labour or by servants on wages payable in cash or kind (but not as a share of produce) with his own or hired stock under the . . . supervision of himself or any member of his family.

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Explanation.—Any student of any college affiliated to any University or of a school or other educational institution recognized by the Government, who has not completed the age of twenty-five years, or any minor or person subject to any physical or mental disability, or any member of the Armed Forces, shall be deemed to cultivate the land personally even if there is no supervision by himself or by any member of his family;

(36) " plantation " means any land used for growing all or any of the following, namely, cardamom, cinchona, coffee, rubber or tea;

(37) " possessory mortgagee " means a mortgagee entitled to the possession of the whole or part of the mortgaged property and to receive the rents and profits accruing from such property or any part of such rents and profits and to appropriate the same in lieu of interest or in payment of the mortgage money or partly in lieu of interest or partly in payment of the mortgage money;

(38) " Schedule " means a Schedule appended to this Act;

(39) " seaman " means every person including a master, pilot or apprentice employed or engaged as a member of the crew of . . . a ship or a sailing vessel to which the Merchant Shipping Act, 1958 (Central Act 44 of 1958) applies;

(40) " separate property " means any land held on the date of the commencement of this Act, by any member of a family, whether male or female, in his or her own name;

(41) " Settlement Officer " means an officer appointed under sub-section (1) of section 58;

(42) " standard acre " means—

(1) in any area in the State, except the transferred territory—

(*a*) 1 acre of wet land assessed to land revenue at the rate of Rs. 10 and above per acre; or

(*b*) 1·2 acres of wet land assessed to land revenue at the rate of Rs. 8 and above but below Rs. 10 per acre; or

(*c*) 1·6 acres of wet land assessed to land revenue at the rate of Rs. 6 and above but below Rs. 8 per acre; or

(*d*) 1·75 acres of wet land assessed to land revenue at the rate of Rs. 4 and above but below Rs. 6 per acre; or

. . . .

(*e*) 2 acres of wet land assessed to land revenue at any rate below Rs. 4 per acre; or

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(*f*) 2·5 acres of dry land assessed to land revenue at the rate of Rs. 2 and above per acre; or

(*g*) 3 acres of dry land assessed to land revenue at the rate of Rs. 1·25 and above but below Rs. 2 per acre; or

(*h*) 4 acres of dry land assessed to land revenue at any rate below Rs. 1·25 per acre;

* * * * * *

(2) in the Kanyakumari district—

(*a*) 1 acre of registered wet land irrigated by any source forming part of, or benefited by, any project; or

(*b*) 1·2 acres of registered dry land irrigated by any source mentioned in item (*a*); or

(*c*) 1·6 acres of dry land irrigated by any Government source other than a source mentioned in item (*a*); or

(*d*) 4 acres of unirrigated dry land;

(3) in the Shencottah taluk of the Tirunelveli district—

(*a*) 1·2 acres of wet land irrigated by any river or stream . . . or by tank fed by any river or stream; or

(*b*) 1·6 acres of wet land irrigated by any Government source other than a source mentioned in item (*a*); or

(*c*) 2 acres of dry land irrigated by any Government source; or

(*d*) 4 acres of unirrigated dry land.

Explanation I.—For the purpose of sub-clause (1) of clause (42), " land revenue " shall mean—

(i) in the case of any land in respect of which a ryotwari settlement is in force on the date of the commencement of this Act, ryotwari assessment payable on that date;

(ii) in the case of any inam land on which full assessment of revenue has been levied under the Madras Inams (Assessment) Act, 1956 (Madras Act XL of 1956), such assessment;

(iii) in the case of any land [other than an inam land referred to in clause (ii)] in respect of which a ryotwari settlement is not in force on the date of the commencement of this Act, but is brought into force after that date but before the date of publication of the draft statement under sub-section (5) of section 10, the ryotwari assessment payable under such settlement after it is brought into force;

(iv) in the case of any land in respect of which a ryotwari settlement effected in pursuance of section 22 of the Madras Estates (Abolition and Conversion into Ryotwari)

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Act, 1948 (Madras Act XXVI of 1948) has not been brought into force before the date of publication of the draft statement under sub-section (5) of section 10, or in the case of any inam land, the land revenue notified by the Government in this behalf with due regard to the highest rate of ryotwari assessment payable for any land of a similar description and with similar advantages in the nearest ryotwari village :

Provided that no notification shall be issued under this clause, unless the persons likely to be affected by such notification are given a reasonable opportunity to make representation and adduce evidence in respect of the rates proposed to be specified in the notification :

Provided further that the land revenue notified by the Government under this clause shall not be modified, notwithstanding that a different rate of assessment is fixed under—

(i) any settlement that may be brought into force; or

(ii) the Madras Inams (Assessment) Act, 1956 (Madras Act XL of 1956);

after the date of the publication of the said notification.

Explanation II.—In sub-clauses (2) and (3) of clause (42) " wet land " and " dry land " shall include inam wet land and inam dry land respectively.

Explanation III.—For the purpose of sub-clause (2) of clause (42), ' project ' means any of the following irrigation systems, namely :—

(i) Kodayar project system proper;

(ii) (*a*) Pazhayar system;

(*b*) Valliar system;

(*c*) Thirparappu Right Bank Channel and Left Bank Channel system;

(*d*) Champakulam system;

(iii) Alathuraiyar system.

Explanation IV.—In any area in the State, except the transferred territory, one acre of dry land—

(*a*) irrigated by direct flow of water from any Government source of irrigation supplying water—

(i) for two crops and above, shall be deemed to be equivalent to one acre of wet land assessed to land revenue at the rate of Rs. 8 and above but below Rs. 10 per acre;

(ii) for only one crop, shall be deemed to be equivalent to one acre of wet land assessed to land revenue at the rate of Rs. 4 and above but below Rs. 6 per acre;

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(b) irrigated by lifting water from any Government source of irrigation shall be deemed to be equivalent to one acre of wet land assessed to land revenue at the rate of Rs. 4 and above below Rs. 6 per acre;

Provided that the Government may, in respect of any particular area, by notification, direct that 1 acre of dry land irrigated from any Government source of irrigation shall be deemed to be equivalent to any specified extent of any of the categories of land specified in sub-clause (1) of clause (42) on the ground of quality of the soil or on any other ground :

Provided further that such notification shall not come into force unless it is approved by the Legislature.

Explanation V.—Where the land held by a person consists of more than one of the kinds of the land specified in clause (42), the extent of the land held by him shall, for the purposes of this Act, be reduced to standard acres calculated according to the proportions specified in clause (42);

(43) " State " means the State of Madras;

. . . .

(44) " sugar factory " means any factory in which sugar is manufactured by vacuum pan process and which is a company;

(45) " Sugar Factory Board " means the Madras Sugar Factory Board constituted under section 38;

(46) " surplus land " means the land held by a person in excess of the ceiling area and declared to be surplus land under section 12, 13 or 14;

(47) " tenant " means any person who has paid or has agreed to pay rent or other consideration for his being allowed by another to enjoy the land of the latter under a tenancy agreement, express or implied, and includes—

(i) his heirs, assignees, legal representatives or persons deriving rights through him;

(ii) a cultivating tenant;

(48) " tope " means any land containing groups of fruit or nut-bearing trees including palmyrah trees, constituting the main crop in such land, whether of spontaneous or artificial growth and includes orchards but does not include trees on such bunds as are not within or adjunct to such groups of trees;

(49) " transferred territory " means the Kanyakumari district and the Shencottah taluk of the Tirunelveli district;

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(50) "trust" means trust for a public purpose of a religious or charitable, or of an educational, nature, and includes any temple, math, mosque, church or other place, by whatever name known, which is dedicated to, or for the benefit of, or used as of right by, any community or section thereof as a place of public religious worship.

4. *Act to override other laws, contracts, etc.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom, usage or contract or decree or order of a court or other authority.

CHAPTER II.

Fixation of Ceiling on Land Holdings.

5. *Ceiling area.*—(1) (*a*) The ceiling area in the case of every person and, subject to the provisions of sub-sections (4) and (5), the ceiling area in the case of every family consisting of not more than five members, shall be [illegible] standard acres.

(*b*) The ceiling area in the case of every family consisting of more than five members shall, subject to the provisions of sub-sections (4) and (5), be 30 standard acres together with an additional 5 standard acres for every member of the family in excess of five.

(2) For the purposes of this section, all the lands held individually by the members of a family or jointly by some or all of the members of such family shall be deemed to be held by the family.

(3) (*a*) In calculating the extent of land held by a member of a family or by an individual person, the share of the member of the family or of the individual person in the land held by an undivided Hindu family, a Marumakkattayam tarwad, an Aliyasanthana family or a Nambudiri Illom shall be taken into account.

(*b*) In calculating the extent of land held by a family or by an individual member, the share of the family or of the individual member in the land held by a firm, society or association of individuals (whether incorporated or not) or by a company (other than a non-agricultural company) shall be taken into account.

Explanation.—For the purposes of this section—

(*a*) the share of a member of a family or of an individual person in the land held by an undivided Hindu family, a Marumakkattayam tarwad, an Aliyasanthana family or a Nambudri Illom, and

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(*b*) the share of a family or of an individual member, in the land held by a firm, society or association of individuals (whether incorporated or not), or by a company (other than a non-agricultural company),

shall be deemed to be the extent of land—

(i) which, in case such share is held on the date of the commencement of this Act, would have been allotted to such member, person or family had such land been partitioned or divided, as the case may be, on such date; or

(ii) which, in case such share is acquired in any manner whatsoever after the date of the commencement of this Act, would be allotted to such member, person or family if a partition or division were to take place on the date of the preparation of the draft statement under sub-section (1) of section 10.

(4) (*a*) Subject to the provisions of sub-section (5) where the separate property held by any member of a family together with the other land held by the members of the family is in excess of 30 standard acres, the first mentioned member may hold, in addition to the extent of land which the family is entitled to hold under sub-section (1), separate property not exceeding 10 standard acres:

Provided that where any extent of separate property held by a member is included in the extent of land which the family is entitled to hold under sub-section (1) and in case where the extent so included is—

(i) 10 or more than 10 standard acres, he or she shall not be entitled to hold any separate property in addition to the extent so included, or

(ii) less than 10 standard acres, he or she may hold in addition to the extent so included an extent of separate property which, together with the extent so included shall not exceed 10 standard acres.

(*b*) Where the extent of separate property held under clause (*a*) by any member of a family consisting of more than five members—

(i) is 5 or more than 5, standard acres, he or she shall not be deemed to be a member of that family for the purposes of clause (*b*) of sub-section (1); or

(ii) is less than 5 standard acres, the additional extent of 5 standard acres allowed under clause (*b*) of sub-section (1) shall be reduced by the same extent as the extent of separate property so held.

Illustrations.

(*a*) An undivided Hindu family consists of the husband A, his wife and his three sons B, C and D, and the wife of B and grandsons E and F. B is a major and C and D are minors.

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E and F are the minor sons of B. The extent of land held by the undivided Hindu family is 80 standard acres, that is to say, A's share and the share of his sons in the land held by the undivided Hindu family is 20 standard acres each. A's wife and B's wife have separate property of 20 standard acres each. C and D have also separate property of 20 standard acres each. E and F also have separate property of 20 standard acres each.

For the purpose of ceiling, A's family and B's family will each constitute a separate unit [section 3 (14)].

A's family consists of himself, his wife and his minor sons C and D. If the share of A in the land held by the undivided Hindu family, namely, 20 standard acres is included within the 30 standard acres allowed under sub-section (1) of section 5, the wife's separate property to the extent of 10 standard acres may be included to make up 30 standard acres. C and D can each hold additional 10 standard acres of separate property [section 5 (4)]. All the members of A's family will therefore be together entitled to hold 50 standard acres and the remaining 70 standard acres will be treated as surplus land.

B's family consists of himself, his wife and his minor sons E and F. If E's separate property, namely, 20 standard acres is included within the 30 standard acres allowed under sub-section (1) of section 5, the share of B and his sons in the land held by the undivided Hindu family to the extent of 10 standard acres may be included to make up 30 standard acres. B's wife can hold additional 10 standard acres of separate property and B's minor son F can also hold additional 10 standard acres of separate property [section 5 (4)]. All the members of B's family will therefore be together entitled to hold 50 standard acres and the remaining 30 standard acres will be treated as surplus land.

But if E's separate property, namely, 20 standard acres is included within the 30 standard acres allowed under sub-section (1) of section 5 and F's separate property to the extent of 10 standard acres is also included to make up 30 standard acres, then, B's wife alone can hold additional 10 standard acres of separate property [section 5 (4)]. All the members of B's family will therefore be together entitled to hold 40 standard acres and the remaining 40 standard acres will be treated as surplus land.

(*b*) A family consists of husband and wife. The husband is a member of an undivided Hindu family and his share in the land held by the undivided Hindu family is 25 standard acres. The wife has separate property of 20 standard acres. If the entire separate property of 20 standard acres held by the wife is included within the 30 standard acres allowed under sub-section (1) of section 5, then 15 standard acres will be treated as surplus land and the wife is not entitled to hold any additional extent of separate property [section 5 (4)].

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But if the 25 standard acres which is the share of the husband in the undivided Hindu family is included within the 30 standard acres allowed under sub-section (1) of section 5, then an extent of 5 standard acres of separate property of the wife could also be included to make up 30 standard acres. The wife may retain an additional 5 standard acres of separate property [section 5 (4)]. Ten standard acres will be treated as surplus land.

(*c*) A Muslim family consists of the husband, his wife and his two minor sons. The wife and the two minor sons have each 30 standard acres as separate property. The husband has 10 standard acres of separate property. If the said 10 standard acres is included within the 30 standard acres allowed under sub-section (1) of section 5, then, an extent of 20 standard acres of separate property of the wife may be included to make up 30 standard acres. Each of the two minor sons can hold additional 10 standard acres. All the members of the family are together entitled to hold 50 standard acres. The remaining 50 standard acres will be treated as surplus land.

(*d*) A Christian family consists of the husband, his wife and his two minor sons. The husband and the minor sons have no separate property. The wife has separate property of 40 standard acres. The family can retain 30 standard acres [section 5 (4)]. The remaining 10 standard acres will be treated as surplus land and the wife is not entitled to hold any additional extent of separate property.

(5) Notwithstanding anything contained in . . . sub-section (1) and in sub-section (4), the total extent of the land held or deemed to be held by any family shall in no case exceed 60 standard acres.

(6) . . . In calculating the extent of land held or deemed to be held by any person, the extent of land which may revert to such person immediately after the death of any limited owner shall, during the lifetime of the limited owner, be excluded.

6. *Basis of calculation of the extent of land held by the founder of a trust.*—Where under the terms of a trust any interest either in the land in respect of which the trust is created or in the income from such land is reserved in favour of the founder of such trust, or of any other person, the authorized officer shall exclude the extent of land which bears to the total extent of land in respect of which the trust is created, the same proportion as such interest bears to the total interest in such land or the income therefrom. The extent of the land so excluded shall, with effect from the date of such exclusion, be deemed to be held by the founder or such other person, with proportionate liability, if any, subsisting on the land so excluded and shall be taken into account in calculating the extent of land held by him.

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7. *Ceiling on holding land.*—On and from the date of the commencement of this Act, no person shall, except as otherwise provided in this Act, be entitled to hold land in excess of the ceiling area :

Provided that in calculating the total extent of land held by any person, any extent in excess of the ceiling area and not exceeding half an acre in the case of wet land and one acre in the case of dry land shall, irrespective of the assessment of such land, be excluded.

8. *Furnishing of return by person holding land in excess of 30 standard acres.*—(1) Within ninety days from such date as may be specified in the notification issued by the Government in this behalf, every person, who on the date of the commencement of this Act, held or is deemed to have held, land in excess of 30 standard acres shall, in respect of all land held or deemed to have been held by such person on such date, . . . furnish to the authorized officer within whose jurisdiction the holding of such person or the major part thereof is situated, a return containing the following particulars, namely :—

(i) particulars of all the land;

(ii) particulars of the members of the family and of the separate property held by each member of the family;

(iii) particulars of any interest either in the land held by a trust or in the income from such land reserved in his favour or in favour of any member of his family;

(iv) particulars of the land which such person desires to hold for dairy farming or livestock breeding;

(v) particulars of land—

(*a*) interspersed among plantations, or

(*b*) contiguous to any plantation,

in existence on the date of the commencement of this Act in any area other than a hill area and which land such person desires to hold for extension, or ancillary purposes, of the plantation;

(vi) particulars of the encumbrances, if any, over the land together with the name and address of the creditor;

(vii) particulars of any pending litigation respecting the land or part thereof;

(viii) particulars of the land which such person desires to retain within the ceiling area and the land which he desires to be declared as surplus land;

(ix) particulars of the land held by tenant, if any, and the name and address of such tenant;

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(x) in the case of an existing sugar factory, also particulars of the land which such sugar factory—

(*a*) holds as owner, and

(*b*) holds otherwise than as owner and the basis on which such land is held,

and which such sugar factory desires to hold for the cultivation of sugarcane for use in the factory; and

(xi) such other particulars as may be prescribed.

Explanation I.—In the case of a member of the Armed Forces, the reference to ninety days shall be deemed to be a reference to one year.

Explanation II.—Where land is held or deemed to be held by—

(*a*) an individual, the return shall be furnished by him or any person authorized by him in writing in this behalf,

(*b*) a person who is a minor, lunatic, idiot, or is subject to alike disability, the return shall be furnished by the guardian, manager or other person in charge of such person or of the property of such person,

(*c*) a company or other corporate body, the return shall be furnished by any person competent to act for such company or body in this behalf.

Explanation III.—Where land is held or deemed to be held by a family, the return shall be furnished . . . by the person in management of such family or of the property of such family and the return so furnished shall be binding on the other members of the family :

Provided that the authorized officer shall give to the other members of the family a reasonable opportunity of making their representations and of adducing evidence, if any, in respect of such return and shall consider such representations and evidence before the preparation of the draft statement under sub-section (1) of section 10.

(2) The notification referred to in sub-section (1) shall contain such particulars and shall be published in such manner as may be prescribed.

9. *Collection of information.*—(1) If any person who has held or is deemed to have held land in excess of 30 standard acres fails to furnish the return under section 8 or furnishes an incorrect or incomplete return under that section, the authorized officer, may, by notice, require such person to furnish the return or the additional particulars, as the case may be, within the time specified in the notice, or within such further time not exceeding thirty days as the authorized officer may, in his discretion, allow.

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(2) (*a*) Where any person, on whom notice under sub-section (1) has been served, fails to furnish the return, or the additional particulars, as the case may be, within the time specified in that notice, or within the further time allowed by the authorized officer under sub-section (1), the authorized officer may obtain in such manner as may be prescribed the necessary information either by himself or through such agency as he thinks fit.

(*b*) The authorized officer shall, as soon as may be, after obtaining the information under clause (*a*), give to the person concerned a reasonable opportunity of making his representation and of adducing evidence, if any, in respect of such information and consider any such representation and evidence and pass such orders as he deems fit.

(3) Where the authorized officer finds from the return furnished under section 8, or under sub-section (1), or the additional particulars, if any, furnished under sub-section (1), or from the information obtained by the authorized officer under clause (*a*) of sub-section (2) that the person concerned desires to hold—

(a) (i) any land interspersed among plantations, or

(ii) any land contiguous to any plantation,

in existence on the date of the commencement of this Act in any area other than a hill area, or

(*b*) any land for dairy farming or livestock breeding, he shall, subject to such rules as may be prescribed in this behalf, forward a copy of the return, the additional particulars, or the information obtained, as the case may be, to the Land Board.

(4) Where the authorized officer finds from the return furnished under section 8 or under sub-section (1), or the additional particulars, if any, furnished under sub-section (1), or from the information obtained by the authorized officer under clause (*a*) of sub-section (2) that any existing sugar factory desires to hold any land for the cultivation of sugar-cane for use in the sugar factory, he shall, subject to such rules as may be prescribed in this behalf, forward a copy of the return, the additional particulars, or the information obtained, as the case may be, to the Sugar Factory Board.

10. *Preparation and publication of draft statement as regards land in excess of the ceiling area.*—(1) On the basis of the return furnished under sub-section (1) of section 8 and the basis of the representation and evidence under the proviso to Explanation III to sub-section (1) of section 8 or on the basis of the return furnished under sub-section (1) of section 9 and the additional particulars, if any, furnished under that sub-section, or on the basis of the information obtained by the authorized officer under clause (*a*) of sub-section (2) of

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section 9 and the orders passed on the representation and the evidence, if any, under clause (b) of sub-section (2) of section 9, as the case may be, the authorized officer shall, subject to the provisions of sub-sections (2), (3) and (4) and after making such enquiry as he deems fit, prepare a draft statement in respect of each person holding or deemed to have held land in excess of the ceiling area. Such draft statement shall contain the following particulars, namely :—

(i) the name and address of the person;

(ii) particulars of all land held by such person and the total extent of such land;

(iii) particulars of the members of the family and the separate property held by each member of the family;

(iv) particulars of any interest either in the land held by a trust or in the income from such land reserved in his favour or in favour of any member of his family;

(v) particulars of the land which such person desires to hold for dairy farming or livestock breeding;

(vi) particulars of land—

(a) interspersed among plantations, or

(b) contiguous to any plantation,

in existence on the date of the commencement of this Act in any area other than a hill area and which land such person desires to hold for extension, or ancillary purposes, of the plantation;

(vii) particulars of encumbrances, if any, over the land together with the name and address of the creditor;

(viii) particulars of the land which such person desires to retain within the ceiling area;

(ix) the extent of the ceiling area of the person;

(x) particulars of the land which may be comprised within the ceiling area;

(xi) particulars of the land held by tenant, if any, and the name and address of such tenant;

(xii) particulars of the land proposed to be declared as surplus land;

(xiii) in the case of an existing sugar factory, also the particulars of the land which such sugar factory—

(a) holds as owner, and

(b) holds otherwise than as owner and the basis on which such land is held,

and which such sugar factory desires to hold for the cultivation of sugarcane for use in the sugar factory; and

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(xiv) such other particulars as may be prescribed.

. . . .

(2) For the purpose of calculating the ceiling area of a family under clause (ix) of sub-section (1), the authorized officer shall take into account only those members of that family who are alive on the notified date.

(3) If any person has failed to specify the particulars of the land which he desires to retain within is ceiling area, the authorized officer shall, as far as practicable, specify in the draft statement, the land which is capable of easy and convenient enjoyment as the land to be retained by such person within his ceiling area.

(4) If any person has specified the particulars of the land which he desires to retain within his ceiling area, the authorized officer shall, as far as practicable, declare the same land as comprised within his ceiling area :

Provided that where in the opinion of the authorized officer, the utility of any land or part thereof held by any person has been diminished by any wilful act of such person, after the date of the commencement of this Act, the authorized officer shall declare such land or any part thereof as comprised within his ceiling area :

Provided further that the authorized officer shall, subject to such conditions as may be prescribed, declare the share of any person in the land held by an agricultural company, a co-operative society or a Land Mortgage Bank, or any part of such share as comprised within the ceiling area :

Provided also that subject to the above provisions, the land which the authorized officer proposes to declare as surplus land under clause (xii) of sub-section (1) shall, as far as practicable, be such as is capable of easy and convenient enjoyment.

(5) The draft statement shall be published and a copy thereof shall be served on the persons concerned, the tenants, creditors and all other persons who in the opinion of the authorized officer are interested in the land to which such draft statement relates, together with a notice stating that any objection to the draft statement shall be preferred within sixty days from the service of such notice. Any objection received within the time specified in the notice or within such further time not exceeding thirty days as the authorized officer may in his discretion allow shall be duly considered by the authorized officer who, after giving the objector a reasonable opportunity of being heard and of adducing evidence, if any, and subject to such rules as may be made shall pass such order as he deems fit.

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11. *Authorized officer to decide question of title in certain cases.*—(1) If while considering the objections received under sub-section (5) of section 10 or otherwise, the authorized officer finds that any question has arisen regarding the title of a person to any land and such question has not already been finally determined by, or is not pending before, a competent court, the Land Tribunal or other authority, the authorized officer may, subject to the provisions of sub-section (2), decide such question summarily in such manner as may be prescribed and may pass such order as he deems fit.

(2) Where in the opinion of the authorized officer the decision of a question under sub-section (1) involves a substantial question of law or of fact, he shall, for reasons to be recorded in writing refer the question to the Land Tribunal.

(3) The order of the authorized officer under sub-section (1) shall not be subject to any appeal or revision, but any party may, within three months from the date of service of a copy of such order, institute a suit in the Land Tribunal within whose jurisdiction the land or the major part thereof is situated to have the order set aside or modified but subject to the final result of such suit, if any, the order of the authorized officer shall be final.

12. *Publication of final statement.*—After the disposal of the objections, if any, preferred under sub-section (5) of section 10, and after passing the order, if any, under sub-section (1) of section 11, the authorized officer shall, subject to the provisions of this Act and the rules made thereunder, make necessary alterations in the draft statement in accordance with the order passed on the objections aforesaid and the order, if any, passed under sub-section (1) of section 11, and shall declare the surplus land held by each person. The authorized officer shall thereafter publish a final statement specifying therein the entire land held by the person, the land to be retained by him within the ceiling area and the land declared to be surplus land and such other particulars as may be prescribed and cause a copy thereof to be served on the persons referred to in sub-section (5) of section 10. Such a statement shall, subject to the provisions of section 14, be conclusive evidence of the facts stated therein.

13. *Exclusion of certain land from calculation of ceiling area.*—(1) Notwithstanding anything contained in sections 11 and 12, the authorized officer shall, in calculating the extent of land held by any person, exclude—

(i) the land in respect of which any question of title is pending before a competent court, or the Land Tribunal or other authority;

. . . .

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(ii) the land in respect of which the question whether such land could be permitted to be used for dairy farming or livestock breeding is pending before the Land Board; and

(iii) the land in respect of which the question whether such land could be permitted to be used for the extension, or for ancillary purposes, of the plantation in existence on the date of the commencement of this Act in any area other than a hill area is pending before the Land Board; and where after such exclusion the land held by such person is in excess of the ceiling area, he shall declare the land in excess to be surplus land. The land so declared as surplus land shall be incorporated in the final statement published under section 12.

(2) Notwithstanding anything contained in sections 11 and 12, the authorized officer shall, in calculating the extent of land held by any existing sugar factory, exclude the land in respect of which the question whether such land could be continued to be used for the cultivation of sugarcane for use in the existing sugar factory is pending before the Sugar Factory Board and where after such exclusion the land held by the existing sugar factory is in excess of the ceiling area, he shall declare the land in such excess to be the surplus land of the existing sugar factory. The land so declared as surplus land shall be incorporated in the final statement published under section 12.

14. *Amendment of final statement in certain cases.*—(1) As soon as may be, after the final disposal of the proceeding or suit relating to the question of title of any land excluded under clause (i) of sub-section (1) of section 13, the authorized officer shall—

(i) amend the final statement published under section 12, or

(ii) where there is no such final statement, prepare a final statement, if necessary, under section 12,

in accordance with the decision of the court or the Land Tribunal, or other authority, as the case may be.

. . . .

(2) As soon as may be, after the Land Board has decided—

(a) under section 27 whether any land excluded under clause (ii) of sub-section (1) of section 13 could be permitted to be used for dairy farming or livestock breeding; or

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(*b*) under section 31 whether any land excluded under clause (iii) of sub-section (1) of section 13 could be permitted to be used for extension, or for ancillary purposes, of any plantation,

the authorized officer shall—

(i) amend the final statement published under section 12, or

(ii) where there is no such final statement, prepare a final statement, if necessary, under section 12,

in accordance with the decision of the Land Board.

(3) As soon as may be, after the Sugar Factory Board has decided under section 40 whether any land excluded under sub-section (2) of section 13 could be continued to be used for the cultivation of sugarcane for use in the existing sugar factory, the authorized officer shall—

(i) amend the final statement published under section 12, or

(ii) where theer is no such final statement, prepare a final statement, if necessary, under section 12,

in accordance with the decision of the Sugar Factory Board.

(4) The final statement amended or prepared under sub-section (1), (2) or (3) shall be published and the authorized officer shall cause a copy of the final statement as so amended or prepared to be served on the persons referred to in sub-section (5) of section 10.

15. *Power to rectify* bona fide *mistakes and clerical errors.*—Notwithstanding anything contained in sections 12 and 14, the authorized officer may, either of his own motion or on the application of any of the parties,—

(*a*) if he is satisfied that a *bona fide* mistake has been made in regard to any entry in the final statement published under section 12 or 14, make the necessary corrections therein;

(*b*) at any time, correct any clerical or arithmetical mistake in regard to any entry in such final statement.

. . . .

16. *Possession of land held by possessory mortgagee to revert to the possessory mortgagor in certain cases.*—(1) Where any land held by any person as possessory mortgagee is in excess of the ceiling area of such person, the possession of the land in such excess shall, with effect from the date of publication of the final statement under section 12 or 14—

(*a*) in any case where the total holding of the possessory mortgagor is not in excess of the ceiling area, revert to the possessory mortgagor;

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(*b*) in any case where the total holding of the possessory mortgagor is in excess of the ceiling area, and where he desires the land mortgaged by him or any part thereof to be included within his ceiling area in the return furnished by him under section 8, revert to him subject to the condition that the land so reverted together with the other land held by him does not exceed the ceiling area.

(2) Where the possession of the land in excess held by a possessory mortgagee or any part thereof does not revert to the possessory mortgagor under sub-section (1), the Government may acquire such land under section 18.

(3) (*a*) (i) The possessory mortgagor to whom possession of the land mortgaged reverts under sub-section (1), shall pay the mortgage money due to the possessory mortgagee in respect of that land.

(ii) Where possession of a part only of the land mortgaged reverts to the possessory mortgagor under sub-section (1), the possessory mortgagor shall pay to the possessory mortgagee such amount of the mortgage money as bears to the entire amount of the mortgage money, the same proportion as the value of the part aforesaid on the date of such reversion bears to the value of the entire extent of the land mortgaged on the said date.

(iii) Where no agreement can be reached in respect of the mortgage money payable under sub-clause (i) or (ii), the authorized officer shall, subject to the provisions of sub-clause (iv) and after making such enquiry as he deems fit, decide the amount so payable.

(iv) Where in the opinion of the authorized officer the decision of a question under sub-clause (iii) involves a substantial question of law or of fact, he shall for reasons to be recorded in writing refer the question to the Land Tribunal.

(*b*) The land or any part thereof, the possession of which reverts to the possessory mortgagor under sub-section (1), shall be the security for the payment of the mortgage money.

(*c*) The mortgage money referred to in clause (*a*) shall for the purpose of Article 132 of the First Division of the First Schedule to the Indian Limitation Act, 1908 (Central Act IX of 1908), be deemed to have become due with effect from the date of reversion under sub-section (1), and shall carry interest at the rate of five and a half per centum per annum from the said date.

Explanation.—In this sub-section " mortgage money " means the money payable in accordance with the provisions of the Madras Agriculturists' Relief Act, 1938 (Madras Act IV of 1938).

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(4) Where the possession of any land or any part thereof is likely to revert to the possessory mortgagor under sub-section (1), the authorized officer shall first fix the ceiling area of the possessory mortgagee.

17. *Possession of land held by tenant to revert to the landowner in certain cases.*—(1) Where any land held by any person as tenant is in excess of the extent of land which he is entitled to hold under section 5, . . . the possession of the land in such excess shall, with effect from the date of the publication of the final statement under section 12 or 14, revert to the landowner where and to the extent to which the land of the landowner himself is not liable to be declared as surplus land in accordance with the provisions of this Act.

(2) Where in respect of any land, the possession of which reverts to the landowner under sub-section (1), the contract of tenancy provides for the continuance of the tenancy after the expiry of the agricultural year immediately succeeding the date of such reversion, such landowner shall pay as compensation to the tenant an amount equivalent to one-eighth of the fair rent calculated in the manner specified in paragraph 4 of Part I of Schedule III.

(3) If any dispute arises in regard to the amount of compensation payable to the tenant under sub-section (2), either party may make an application to the authorized officer within whose jurisdiction the land or the major part thereof is situated, for deciding such dispute. The authorized officer shall decide such dispute in accordance with such procedure as may be prescribed.

18. *Acquisition of surplus land.*—(1) After the publication of the final statement under section 12 or 14, the Government shall, subject to the provisions of sections 16 and 17, publish a notification to the effect that the surplus land is required for a public purpose.

(2) As soon as may be after the publication of a notification under sub-section (1), the authorized officer shall—

(*a*) cause to be published in every village or town in which any part of the land specified in such notification is situated a proclamation . . . containing the terms of the notification;

(*b*) cause a copy of the notification to be served on the persons concerned, the creditors, persons whose names appear in the final statement published under section 12 or 14 and such other persons as may be specified in the rules made by the Government.

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(3) On the publication of the notification under sub-section (1), the land specified in the notification together with the trees standing on such land and buildings, machinery, plant or apparatus constructed, erected or fixed on such land and used for agricultural purposes shall, subject to the provisions of this Act, be deemed to have been acquired for a public purpose and vested in the Government free from all encumbrances with effect from the date of such publication and all right, title and interest of all persons in such land shall, with effect from the said date, be deemed to have been extinguished :

Provided that where there is any crop standing on such land on the date of such publication, the authorized officer may, subject to such conditions as may be prescribed, permit the harvest of such crop by the person who had raised such crop.

. . . . .

(4) Subject to the rules made under sub-section (5), the authorized officer may, at any time after the publication of the notification under sub-section (1), take possession of any land specified in the said notification.

(5) The Government may make rules—

(*a*) specifying the classes of tenants who may be allowed to continue in possession of the land;

(*b*) permitting any co-operative society registered or deemed to have been registered under the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932) or under the Travancore-Cochin Co-operative Societies Act, 1951 (Travancore-Cochin Act X of 1952) or any Land Mortgage Bank to which the Madras Land Mortgage Banks Act, 1934 (Madras Act X of 1934) applies or any agricultural company to continue in possession of the land notwithstanding anything contained in sections 5 and 7;

even after the publication of the notification under sub-section (1). Such rules may also provide for the conditions subject to which the persons referred to in clauses (*a*) and (*b*) may continue in possession of the land.

CHAPTER III.

Ceiling on future acquisition and Restriction on Certain Transfers.

19. ***Declaration to be made before the registering authority in certain cases.***—(1) On and after the notified date, no document relating to any transfer of land either by sale, gift, exchange, lease, mortgage, surrender, agreement or settlement, or otherwise, shall be registered unless a declaration in writing is made in duplicate in such form as may be

prescribed and filed by the transferee before the registering authority under the Indian Registration Act, 1908 (Central Act XVI of 1908), as to the total extent of land held by him.

(2) The registering authority referred to in sub-section (1) shall forward within such time and in such manner as may be prescribed, one copy of the declaration referred to in sub-section (1) to the authorized officer, within whose jurisdiction the land which is the subject-matter of the transfer or the major part thereof is situated.

(3) On receipt of the copy of the declaration under sub-section (2), the authorized officer may obtain such information as may be necessary and take such action as he deems fit in accordance with the provisions of this Act, and in accordance with such rules as may be made in this behalf.

20. *Penalty for future acquisition in contravention of section* 7.—(1) If, as a result of any transfer of land either by sale, gift (other than gift made in contemplation of death), exchange, surrender, agreement, settlement or otherwise effected on or after the notified date, the extent of land held by the transferee exceeds the ceiling area, then, the right, title or interest accrued in his favour by virtue of such transfer in the land in excess of the ceiling area shall, as a penalty for contravention of the provisions of section 7, be deemed to have been transferred to the Government with effect from the date of such transfer, on a declaration made by the authorized officer within whose jurisdiction such excess land or the major part thereof is situated. The authorized officer shall record in writing the reasons for such declaration :

Provided that—

(*a*) no such declaration shall be made unless the transferor and the transferee have been given a reasonable opportunity of being heard and of adducing evidence, if any,

(*b*) the transferre shall be liable for payment of the consideration for, and to discharge other liabilities under, such transaction and the transferor shall have no claim for such consideration against the Government, otherwise than in respect of such land,

(*c*) no suit or other proceeding by the transferee shall lie in any court for the refund of the consideration for any such transaction.

Explanation.—For the purpose of this sub-section, "transfer" does not include inheritance, bequest, lease or possessory mortgage.

(2) The Government may make rules providing for the manner in which any right, title or interest transferred to the Government under sub-section (1) shall be disposed of.

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21. *Ceiling on future acquisition by inheritance, bequest or by sale in execution of decree, etc.*—(1) If, on or after the date of the commencement of this Act—

(*a*) any person acquires by inheritance or bequest from any person;

(*b*) and before the notified date, any person acquires by sale in execution of a decree or order of a civil court or of an award or order of any other lawful authority,

any land, which, together with the land, if any, already held by him, exceeds in the aggregate the ceiling area, then he shall, within ninety days from the notified date or from the date of such acquisition, whichever is later, furnish to the authorized officer within whose jurisdiction his holding or the major part thereof is situated, a return containing the following particulars, namely :—

(i) particulars of the land already held by him and those of the land so acquired;

(ii) particulars of the land which he desires to retain within the ceiling area;

(iii) particulars of the date of the acquisition;

(iv) particulars of the manner of acquisition and of the documents, if any, under which such acquisition was made;

(v) the name and description of the person who held the land immediately before the date of acquisition;

(vi) particulars of the land held by tenant, if any, and the name and address of such tenant; and

(vii) such other particulars as may be prescribed.

Explanation.—In this sub-section, "bequest" shall include gift made in contemplation of death.

(2) If, as a result of marriage or adoption after the date of the commencement of this Act, the extent of land held by any person exceeds in the aggregate the ceiling area, then, he shall, within ninety days from the date of the publication of this Act or from the date of marriage or adoption, as the case may be, whichever date is later, furnish to the authorized officer within whose jurisdiction his holding or the major part thereof is situated, a return containing the following particulars, namely :—

(i) particulars of the land held before the date of the marriage or adoption;

(ii) particulars of the land held after the dater of marriage or adoption; and

(iii) such other particulars as may be prescribed.

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(3) If he furnishes the return or fails to furnish the return or furnishes an incorrect or incomplete return, within the period specified in sub-section (1) or sub-section (2), the provisions of section 9 and other provisions of this Act shall, as far as may be, apply as if it were a return required to be furnished under section 8.

22. *Transfer or partition made on or after the date of the commencement of this Act, but before the notified date.*—Where, on or after the date of the commencement of this Act, but before the notified date, any person has transferred any land held by him by sale, gift (other than gift made in contemplation of death), exchange, surrender, settlement or in any other manner whatsoever except by bequest or has effected a partition of his holding or part thereof, the authorized officer within whose jurisdiction such land, holding or the major part thereof is situated may, after notice to such person and other persons affected by such transfer or partition and after such enquiry as he thinks fit to make, declare the transfer or partition to be void if he finds that the transfer or the partition, as the case may be, defeats any of the provisions of this Act.

. . . . .

23. *Authorized officer not to take into consideration certain transfers or subdivisions before publication of final statement.*—Subject to the provisions of section 20, for the purpose of fixing the ceiling area under this Act, the authorized officer shall not take into consideration—

(*a*) any transfer, whether by sale (including sale in execution of a decree or order of a civil court or of an award or order of any other lawful authority) or by gift (other than gift made in contemplation of death), exchange, surrender, settlement or otherwise; or

(*b*) any subdivision (including subdivision by a decree or order of a civil court or any other lawful authority) whether by partition or otherwise,

effected on or after the notified date and before the date of the publication of the final statement under section 12 or 14.

CHAPTER IV.

CONSTITUTION AND FUNCTIONS OF THE LAND BOARD.

24. *Constitution of the Land Board.*—(1) The Government may constitute for the State a Board called the **Madras Land Board.**

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(2) The Land Board shall consist of—

(*a*) one judicial officer who is, or is qualified for appointment as, or a person who has been, a Judge of a High Court, nominated by the Government;

(*b*) the Land Commissioner, *ex-officio;*

(*c*) the Director of Animal Husbandry, *ex-officio;*

(*d*) two members nominated by the Government.

(3) The member referred to in clause (*a*) of sub-section (2) shall be the Chairman of the Land Board. The Secretary to the Land Board shall be a Gazetted Officer nominated by the Government, but he shall not be entitled to vote.

(4) (*a*) The term of office of a member referred to in clause (*a*) or (*d*) of sub-section (2) shall be three years or such shorter period as the Government may fix and such member shall be eligible for re-nomination.

(*b*) Any member referred to in clause (*a*) or (*d*) of sub-section (2) shall be deemed to have vacated his seat if he absents himself without excuse, sufficient in the opinion of the Land Board, from the meetings of the Land Board, for a period of three consecutive months reckoned from the date of the commencement of his term of office or of the last meeting which he attended, as the case may be, or if, within the said period less than three meetings have been held, absents himself from three consecutive meetings held after the said date:

Provided that no meeting from which a member absents himself shall be counted against him under this clause if due notice of that meeting was not given to him.

(5) A member referred to in clause (*a*) of sub-section (2) may, at any time by notice in writing to the Government, and a member referred to in clause (*d*) of that sub-section may, at any time by notice in writing to the Chairman, resign his office, but he shall continue in office until the nomination of his successor.

(6) (*a*) A casual vacancy in the office of a member referred to in clause (*a*) or (*d*) of sub-section (2) shall be filled by fresh nomination.

(*b*) The person nominated to fill a casual vacancy under clause (*a*) shall hold office for a period of three years or for such shorter period as the Government may fix and he shall be eligible for re-nomination.

25. *Functions of the Land Board.*—The Land Board shall perform such functions as are assigned to it by or under this Act.

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26. *Application to the Land Board for future acquisition of land for dairy farming or livestock breeding.*—Any person desiring to acquire in excess of the ceiling area any land for dairy farming or livestock breeding shall make an application to the Land Board for permission to acquire such land. Every such application shall be in writing and shall contain—

(*a*) the extent and other particulars of the land proposed to be acquired and those of the land, if any, already held by the applicant;

(*b*) the approximate number of heads of cattle proposed to be kept in the land, their breed and special features; and

(*c*) such other particulars as may be prescribed.

27. *Decision of the Land Board in respect of land to be used for dairy farming or livestock breeding.*—On receipt of a copy of the return, additional particulars, or information, as the case may be, forwarded by the authorized officer under clause (*b*) of sub-section (3) of section 9, or on receipt of the application under section 26, the Land Board shall, after making such enquiry and inspection of the land or livestock, as it deems fit and after satisfying itself that the land in respect of such permission is required could with advantage be used for dairy farming or livestock breeding, grant the permission for the whole or part of such land and subject to such conditions as it deems fit or refuse to grant such permission.

28. *Matters to be considered by the Land Board when granting or refusing permission under section 27.*—The Land Board shall, in deciding whether to grant or refuse permission under section 27, take into consideration the following matters, namely :—

(*a*) the interest to be served by the development of dairy farming or livestock breeding;

(*b*) the status and previous experience, if any, of the person concerned;

(*c*) the suitability of the land to be used for dairy farming or livestock breeding;

(*d*) the number of heads of cattle, if any, owned by the person concerned, their breed and special features;

(*e*) the land already owned by the applicant for the purpose of cultivation; and

(*f*) such other matters as may be prescribed.

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29. *Cancellation of permission granted under section 27.*—The Land Board may cancel the permission granted under section 27—

(*a*) on the breach of any condition specified by the Land Board under section 27, or

(*b*) if the land in respect of which the permission was granted is used or allowed to be used for any purpose other than for dairy farming or livestock breeding, or

(*c*) if, as a result of any irrigation project constructed at the cost of the Government, the land in respect of which the permission was granted, could with advantage, be cultivated, or

(*d*) if the person concerned has obtained the permission by fraud or misrepresentation :

Provided that no such permission shall be cancelled unless a reasonable opportunity has been given to the person likely to be affected by such cancellation to show cause against such cancellation.

30. *Application to the Land Board for future acquisition of land interspersed among or contiguous to any plantation.*—Any owner of plantation in existence on the date of the commencement of this Act in any area other than a hill area desiring to acquire in excess of the ceiling area land which is interspersed among plantations or is contiguous to any plantation and which may be required for the extension, or for ancillary purposes, of the plantation shall make an application to the Land Board for permission to acquire such land. Every such application shall be in writing and shall contain—

(*a*) the extent and other particulars of the land proposed to be acquired and those of the land, if any, held by the applicant;

(*b*) such other particulars as may be prescribed.

31. *Decision of the Land Board in respect of land interspersed among or contiguous to any plantation.*—On receipt of a copy of the return, additional particulars or information, as the case may be, forwarded by the authorized officer under clause (*a*) of sub-section (3) of section 9 or on receipt of the application under section 30, the Land Board shall, after making such enquiry and inspection of the land and the plantation specified in the application as it deems fit and after satisfying itself that the land in respect of which permission is required is necessary for the extension, or for ancillary

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purposes, of the plantation, grant the permission for the whole or part of such land and subject to such conditions as it deems fit, or refuse to grant such permission :

Provided that the extent of land which is contiguous to any plantation and in respect of which land permission is granted under this section shall in no case exceed twenty per centum of the total extent of such plantation.

32. *Matters to be considered by the Land Board in granting or refusing permission under section* 31.—The Land Board shall, in deciding whether to grant or refuse permission under section 31, take into consideration the following matters, namely :—

(i) area under plantation and area required for ancillary purposes of the plantation;

(ii) programme for extension of the plantation ;

(iii) lands necessary for factories, labour quarters, playgrounds, hospitals, schools and other ancillary buildings . . . ; and

(iv) such other matters as may be prescribed.

33. *Cancellation of permission granted under section* 31.—The Land Board may cancel the permission granted under section 31—

(*a*) on the breach of any condition specified by the Land Board under section 31, or

(*b*) if the land in respect of which the permission was granted is used for any purpose other than for the purpose of extension, or for ancillary purposes, of the plantation, or

(*c*) if the person concerned has obtained the permission by fraud or misrepresentation :

Provided that no such permission shall be cancelled unless a reasonable opportunity has been given to the person likely to be affected by such cancellation to show cause against such cancellation.

34. *Decision of the Land Board to be final.*—The decision of the Land Board granting or refusing permission under section 27 or 31 or cancelling permission under section 29 or 33 shall be final and shall not be called in question in any court.

35. *Meetings of the Land Board.*—(1) The Land Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

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(2) The Chairman, or in his absence, such member as may be chosen by the members present from among themselves shall preside at a meeting of the Land Board.

(3) No member of the Land Board shall vote on, or take part in, the discussion of any question coming up for consideration at a meeting of the Land Board, if the question is one in which he is directly or indirectly interested.

(4) All questions at a meeting of the Land Board shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairman or in his absence, the member presiding shall have a second or casting vote.

(5) All communications and orders of the Land Board shall be issued by the Secretary or by such officer subordinate to him as may be authorized by the Land Board in this behalf.

36. *Power of Land Board to rectify bona fide mistakes and clerical errors.*—The Land Board may, either of its own motion or on the application of any of the parties,—

(*a*) if it is satisfied that a *bona fide* mistake has been made in regard to any decision, make the necessary correction therein;

(*b*) at any time, correct any clerical or arithmetical mistake in its decision.

37. *Act of Land Board not to be invalidated by informality.*—No act of the Land Board shall be deemed to be invalid by reason only of a defect in its constitution or on the ground that the Chairman or any member had ceased to hold his office or by reason of such act having been done during the period of any vacancy in the office of the Chairman or any member of the Land Board.

CHAPTER V.

Constitution and Functions of the Sugar Factory Board.

38. *Constitution of the Sugar Factory Board.*—(1) The Government may constitute for the State a Board called the Madras Sugar Factory Board.

(2) The Sugar Factory Board shall consist of—

(*a*) one judicial officer who is, or is qualified for appointment as, or a person who has been, a Judge of a High Court, nominated by the Government;

(*b*) two officers . . . . who in the opinion of the Government have knowledge in the financial matters relating to sugar factory or experience in sugarcane cultivation, nominated by the Government;

(c) the Secretary to the Government in the Department dealing with sugar factories, *ex-officio;*

(d) the Director of Agriculture, *ex-officio.*

(3) The member referred to in clause (a) of sub-section (2) shall be the Chairman of the Sugar Factory Board and the member referred to in clause (c) or (d) of the said sub-section as may be nominated by the Government shall be the Secretary to the Sugar Factory Board . . .

(4) (a) The term of office of a member referred to in clause (a) or (b) of sub-section (2) shall be three years or such shorter period as the Government may fix and such member shall be eligible for re-nomination.

(b) Any member referred to in clause (a) or (b) of sub-section (2) shall be deemed to have vacated his seat if he absents himself without excuse, sufficient in the opinion of the Sugar Factory Board, from the meetings of the Sugar Factory Board for a period of three consecutive months reckoned from the date of the commencement of his term of office or of the last meeting which he attended, as the case may be, or if, within the said period less than three meetings have been held, absents himself from three consecutive meetings held after the said date :

Provided that no meeting from which a member absents himself shall be counted against him under this clause if due notice of that meeting was not given to him.

(5) A member referred to in clause (a) of sub-section (2) may, at any time by notice in writing to the Government, and a member referred to in clause (b) of that sub-section may, at any time by notice in writing to the Chairman, resign his office, but he shall continue in office until the nomination of his successor.

(6) (a) A casual vacancy in the office of a member referred to in clause (a) or (b) of sub-section (2) shall be filled by fresh nomination.

(b) The person nominated to fill a casual vacancy under clause (a) shall hold office for a period of three years or for such shorter period as the Government may fix and he shall be eligible for re-nomination.

39. *Functions of the Sugar Factory Board.*—The Sugar Factory Board shall perform such functions as are assigned to it by or under this Act.

40. *Decision of the Sugar Factory Board in respect of land to be used for cultivation of sugarcane.*—(1) On receipt of a copy of the return, additional particulars or information, as the case may be, forwarded by the authorized officer under

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sub-section (4) of section 9, the Sugar Factory Board shall, after making such inquiry and inspection of the land and the existing sugar factory as it deems fit and after satisfying itself that the land which is held by the existing sugar factory as owner and in respect of which permission is required, could with advantage be used for the cultivation of sugarcane for use in the existing sugar factory, grant the permission for the whole or part of such land and subject to such conditions as it deems fit or refuse to grant such permission.

(2) Notwithstanding anything contained in this Act, where any land is held by any existing sugar factory as tenant or as possessory mortgagee and where such land together with the other land, if any, held by the landowner or the possessory mortgagor is not in excess of the ceiling area of the landowner or the possessory mortgagor, the Sugar Factory Board shall permit the existing sugar factory to continue to hold such land on lease or on possessory mortgage on existing terms and conditions or on such other terms and conditions as may be agreed to by the landowner or the possessory mortgagor and the existing sugar factory.

(3) Where the surplus land of the landowner or the possessory mortgagor or any portion thereof is held by the existing sugar factory as tenant or as possessory mortgagee, the Sugar Factory Board may make such recommendation to the Government as it deems fit in regard to the disposal of such surplus land under section 91.

41. *Matters to be considered by the Sugar Factory Board when granting or refusing permission under section 40.*—The Sugar Factory Board shall in deciding whether to grant or refuse permission under section 40 take into consideration the following matters, namely :—

(*a*) the requirement of the existing sugar factory;

(*b*) the financial structure of the existing sugar factory; and

(*c*) such other matters as may be prescribed.

42. *Application by any existing or new sugar factory for future acquisition of land.*—(i) Any existing sugar factory desiring to acquire any land in excess of the ceiling area, or of the extent of land permitted to be held under section 40, or

(ii) any new sugar factory desiring to acquire any land in excess of the ceiling area,

shall make an application to the Sugar Factory Board for permission to acquire such land. Every such application shall be in writing and shall contain—

(*a*) the extent and other particulars of the land proposed to be acquired and those of the land, if any, already held by the applicant:

(*b*) such other particulars as may be prescribed.

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43. *Decision of the Sugar Factory Board in respect of land to be acquired by existing or new sugar factory.*—On receipt of the application under section 42, the Sugar Factory Board shall, after making such enquiry and inspection of the land and the existing or new sugar factory specified in the application as it deems fit and after satisfying itself that the land in respect of which permission is required could with advantage be used for cultivation of sugarcane for use in the existing or new sugar factory, grant the permission for the whole or part of such land and subject to such conditions as it deems fit or refuse to grant such permission.

44. *Matters to be considered by the Sugar Factory Board when granting or refusing permission under section* 43.—The Sugar Factory Board shall, in deciding whether to grant or refuse permission under section 43, take into consideration the following matters, namely :—

(*a*) the situation of the existing or new sugar factory;

(*b*) the requirements of the existing or new sugar factory;

(*c*) such other matters as may be prescribed.

45. *Cancellation of permission.*—(1) If it appears to the Government that—

(*a*) the permission granted by the Sugar Factory Board under section 40 or 43 has been obtained by misrepresentation or fraud,

(*b*) any condition specified by the Sugar Factory Board under section 40 or 43 has been contravened,

the Government shall constitute a Sugar Factory Tribunal, consisting of a Judge of a High Court . . . . and refer the matter to such Tribunal.

(2) If, on such reference, the Sugar Factory Tribunal finds that—

(*a*) the permission granted under section 40 or 43 was obtained by the sugar factory concerned by misrepresentation or fraud, or

(*b*) any condition specified by the Sugar Factory Board under section 40 or 43 has been contravened by the sugar factory concerned,

the Sugar Factory Tribunal shall either cancel the permission or pass such other order as it deems fit :

Provided that no order shall be passed under this sub-section unless a reasonable opportunity has been given to the sugar factory concerned to show cause against such order.

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(3) The Sugar Factory Tribunal shall in deciding any reference under this section have such powers and shall follow such procedure as may be prescribed.

46. *Decision to be final in certain cases.*—(1) Subject to the provisions of section 45, the decision of the Sugar Factory Board granting or refusing permission under section 40 or 43 shall be final and shall not be called in question in any Court.

(2) The decision of the Sugar Factory Tribunal under section 45 shall be final and shall not be called in question in any Court.

47. *Meetings of the Sugar Factory Board.*—(1) The Sugar Factory Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(2) The Chairman, or in his absence such member as may be chosen by the members present from among themselves shall preside at a meeting of the Sugar Factory Board.

(3) No member of the Sugar Factory Board shall vote on, or take part in, the discussion of any question coming up for consideration at a meeting of the Sugar Factory Board, if the question is one in which he is directly or indirectly interested.

(4) All questions at a meeting of the Sugar Factory Board shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairman or in his absence, the member presiding, shall have a second or casting vote.

(5) All communications and orders of the Sugar Factory Board shall be issued by the Secretary or by such officer subordinate to him as may be authorized by the Sugar Factory Board in this behalf.

48. *Power of Sugar Factory Board and Sugar Factory Tribunal to rectify bona fide mistakes and clerical errors.*—The Sugar Factory Board or the Sugar Factory Tribunal may, either of its own motion or on the application of any of the parties,—

(*a*) if it is satisfied that a *bona fide* mistake has been made in regard to any decision, make the necessary correction therein;

(*b*) at any time, correct any clerical or arithmetical mistake in its decision.

49. *Act of Sugar Factory Board not to be invalidated by informality.*—No act of the Sugar Factory Board shall be deemed to be invalid by reason only of a defect in its constitution or on the ground that the Chairman or any member

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had ceased to hold his office or by reason of such act having been done during the period of any vacancy in the office of the Chairman or any member of the Sugar Factory Board.

CHAPTER VI.

COMPENSATION.

50. *Determination of compensation for land acquired by the Government.*—(1) Every person whose right, title or interest in any land is acquired by the Government under Chapter II shall be paid compensation according to the rate specified in Schedule III.

(2) Any person claiming any compensation under sub-section (1) may, within sixty days from the date of the publication of the notification under sub-section (1) of section 18 or within such further time not exceeding thirty days as the authorized officer may in his discretion allow, prefer the claim before the authorized officer in such form and containing such particulars as may be prescribed.

(3) (*a*) The authorized officer shall determine the amount of compensation at the rate specified in Schedule III, and prepare a draft compensation assessment roll in such manner and containing such particulars as may be prescribed. He shall cause it to be published together with—

(i) a statement that the amount of compensation specified therein is the entire amount of compensation payable for all interests in the land and that subject to the other provisions of this Act, the persons named therein are the only persons who are entitled thereto in the proportion stated therein, and

(ii) a notice stating that objections, if any, in respect of any entry in the draft may be preferred by any person in such manner as may be prescribed within sixty days from the date of the publication :

Provided that the authorized officer may, in his discretion, allow such further time not exceeding thirty days.

(*b*) The authorized officer shall cause to be served on the persons whose names appear in the draft aforesaid a copy of the draft together with a copy of the said statement and of the said notice.

. . . .

(4) The authorized officer shall consider any objection which may be preferred under sub-section (3) and after giving the parties a reasonable opportunity of being heard and of adducing evidence, if any, pass such order as he thinks fit and record the reasons therefor.

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(5) When such objection, if any, in regard thereto has been finally disposed of, the authorized officer shall make such alteration in the draft compensation assessment roll as may be necessary to give effect to any order made in regard to the objection and shall cause the draft so altered to be published finally in such manner as may be prescribed.

(6) If no objection is preferred within the period specified in the notice published under sub-section (3) or within the further time allowed by the authorized officer under that sub-section, the authorized officer shall cause the draft compensation assessment roll to be published finally in such manner as may be prescribed.

(7) Every entry in the compensation assessment roll published finally under sub-section (5) or sub-section (6) shall, except as provided in this Act, be final and conclusive evidence of—

(*a*) the matters referred to therein;

(*b*) the nature of the interest of the persons named therein; and

(*c*) the apportionment of the compensation among the persons claiming interest in the compensation.

(8) When the compensation assessment roll has been published finally under sub-section (5) or sub-section (6), the authorized officer shall, within such time as may be prescribed, endorse a certificate thereon stating the date of the final publication thereof and shall date and subscribe the same with his name and official designation and such certificate shall be conclusive proof of such publication and the date of such publication.

(9) The authorized officer may, if he is satisfied either of his own motion or on the application of any of the parties that a *bona fide* mistake has been made in regard to any entry in the compensation assessment roll as published finally, make necessary correction therein and on such correction being made, the provisions of sub-sections (3) to (8) shall, as far as may be, apply thereto.

(10) Notwithstanding anything contained in sub-section (9), the authorized officer may at any time correct either of his own motion or on the application of any of the parties any clerical or arithmetical mistake in regard to any entry in the compensation assessment roll as published finally.

. . . .

51. *Claims of mortgagee or charge holder on surplus land.*—(1) Where any surplus land acquired under the provisions of this Act is subject to a mortgage or charge subsisting on the date of the acquisition, the mortgagee or the charge holder shall, where the amount due to him or part thereof can be fixed by agreement, be paid such amount or part. Where no such agreement can be reached, the mortgagee or

the charge holder shall within ninety days from the date of the acquisition, prefer a claim in such manner as may be prescribed before the authorized officer who shall, subject to the provisions of sub-section (3), decide the claim in such manner as may be prescribed and record the reasons for the decision.

(2) Where there are more claimants than one, the authorized officer shall settle the order in which each claimant is entitled to receive the amount due to him, and in doing so he shall be guided by the appropriate provisions of the Transfer of Property Act, 1882 (Central Act IV of 1882).

(3) Where in the opinion of the authorized officer the decision of a claim under sub-section (1) or sub-section (2) involves a substantial question of law or of fact, he shall, for reasons to be recorded in writing, refer the claim to the Land Tribunal for decision.

(4) If the amount of claim allowed to the mortgagee or the charge holder by the authorized officer exceeds the amount of compensation payable under section 50, the entire amount of such compensation shall be paid to the mortgagee or the charge holder, as the case may be, and the balance may be recovered by the mortgagee or the charge holder in accordance with law for the time being in force.

52. *Claims of limited owner on surplus land.*—(1) Where any surplus land acquired under the provisions of this Act is held by a limited owner on the date of the acquisition, the amount of compensation payable in respect of such surplus land under section 50 shall, subject to such conditions as may be prescribed, be kept in deposit before such authority as may be prescribed. The authorized officer shall direct payment of the interest accruing from the amount of compensation so deposited to the person or persons who would, for the time being, have been entitled to the possession of the said land :

Provided that where the limited owner has created an encumbrance over the surplus land referred to in this section, the whole or any portion of the interest aforesaid shall be paid to the encumbrancer, to the extent to which the encumbrancer is entitled and the balance shall be paid to the person or persons who would, for the time being, have been entitled to the possession of the said land.

(2) The amount of compensation referred to in sub-section (1) shall remain so deposited until the same is paid to any person or persons becoming absolutely entitled thereto.

53. *Claims of maintenance-holder on surplus land.*—Where any surplus land acquired under the provisions of this Act is on the date of the acquisition subject to a charge for payment of maintenance to another, the amount of compensation payable

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in respect of such surplus land under section 50 shall, subject to such conditions as may be prescribed, be kept in deposit, before such authority as may be prescribed. Such amount of compensation shall be deemed to be substituted security and shall continue to remain such security till the death of the maintenance-holder or till the right to receive maintenance ceases to exist or till the liability to pay maintenance is discharged.

54. *Compensation to certain tenants.*—(1) Where the contract of tenancy provides for the continuance of the tenancy in respect of any surplus land that vests in the Government under section 18, after the expiry of the agricultural year immediately succeeding the date of such vesting, the tenant . . . shall be entitled to compensation as specified in Schedule IV:

Provided that such tenant shall not be entitled to any compensation in respect of such surplus land also under sub-section (1) of section 50.

(2) The compensation referred to in sub-section (1) . . . . . . shall be apportioned between the cultivating tenant and the intermediary concerned in the manner specified in Schedule IV.

. . . .

55. *Mode of payment of compensation.*—(1) The amount of compensation as finally determined under this Act shall, within such period as may be prescribed, be paid either in cash or in bonds or partly in cash and partly in bonds as the Government may deem fit.

(2) The bonds shall be issued on such terms and carry such rate of interest as may be prescribed. The interest shall be paid—

(i) in the case of any land held by any person referred to in clause (*a*) or (*b*) of sub-section (5) of section 18 with effect from the date of the publication of the notification under sub-section (1) of section 18; and

(ii) in any other case, with effect from the date of taking possession of the land under sub-section (4) of section 18.

CHAPTER VII.

SURVEY AND SETTLEMENT OF LANDS IN THE TRANSFERRED TERRITORY.

. . . .

56. *Survey of . . . lands in the transferred territory.*—(1) Every land in the ttransferred territory . . . . or part thereof shall, if such land or part thereof has not been surveyed in acordance with the provisions contained in the Madras

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Survey and Boundaries Act, 1923 (Madras Act VIII of 1923), be surveyed in accordance with the provisions of that Act within a period of three years from the date of the publication of this Act.

(2) The cost of the survey, except so much as is payable under the provisions of section 8 of the Madras Survey and Boundaries Act, 1923 (Madras Act VIII of 1923), shall be borne by the Government.

57. *Manner of effecting ryotwari settlement.*—(1) The Settlement Officer shall effect within a period of three years from the date of the publication of this Act ryotwari settlement of every land in the transferred territory . . . or part thereof in accordance with a settlement notification framed and published by the Government for the purpose.

(2) The said notification shall embody the principles adopted in making ryotwari settlements in ryotwari areas, and shall adopt—

(*a*) the rates of assessment set out in the settlement notification in force on such date and in such district as may be specified by the Government;

(*b*) if more than one such notification is in force in that district, the rates set out in one of those notifications which the Government consider to be the most appropriate to the case.

. . . .

(3) Neither the settlement notification nor any order passed in pursuance thereof shall be liable to be questioned in any court of law.

(4) For the removal of doubts, it is hereby declared that nothing in this section shall be construed to be in derogation of any law relating to the levy of tax on land in force in the transferred territory.

58. *Appointment and functions of Settlement Officers.*—(1) As soon as may be, after the date of the publication of this Act, the Government shall appoint one or more Settlement Officers to carry out the functions and duties assigned to them by or under this Chapter.

(2) Every Settlement Officer shall be subordinate to the Land Commissioner and shall be guided by such lawful instructions as he may issue from time to time and the Land Commissioner shall also have power to cancel or revise any of the orders, acts or proceedings of the Settlement Officer.

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CHAPTER VIII.

GENERAL PROVISIONS REGARDING TENANCIES.

59. *Cultivating tenants not to be evicted.*—Subject to the provisions of sections 60 to 64, no cultivating tenant shall be evicted from his holding or any part thereof by or at the instance of his landowner.

60. *Landowner may evict cultivating tenant in certain cases.*—(1) Any landowner may evict any cultivating tenant—

(*a*) who in respect of the rent payable to the landowner after the date of the publication of this Act does not pay such rent within a month after such rent becomes due; or

(*b*) who has done any act or has been guilty of any negligence which is destructive of, or injurious to, the land or any crop thereon or has altogether ceased to cultivate the land; or

(*c*) who has used the land for any purpose not being an agricultural purpose; or

(*d*) who has wilfully denied the title of the landowner to the land.

Explanation.—A denial of the landowner's title under a *bona fide* mistake of fact is not wilful within the meaning of this clause.

(2) The provisions of sub-sections (3) (*a*) (ii), (3) (*b*) and (4) of section 3 of the Madras Cultivating Tenants Protection Act, 1955 (Madras Act XXV of 1955) shall, as far as may be, apply to a cultivating tenant under this Act as they apply to a cultivating tenant under the Madras Cultivating Tenants Protection Act, 1955 (Madras Act XXV of 1955) and references to the Court and the Revenue Divisional Officer in the said sub-sections shall be deemed to be references to the authorized officer.

61. *Landowner's right to resume land in certain cases after the expiry of two years from the date of publication of Act.*—Subject to the provisions of section 63, after the expiry of two years from the date of the publication of this Act but before the expiry of seven years from that date, any landowner, who is not assessed to income-tax under the Indian Income-tax Act, 1922 (Central Act XI of 1922) for the previous year as defined in section 2 (11) of that Act, may resume possession of land from the cultivating tenant for the purpose of personal cultivation :

Provided that the extent of land so resumable by the landowner together with the extent of land, if any, already under his personal cultivation and the extent of land, if any the possession of which reverted to him under section 17 shall not exceed five standard acres :

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Provided further that the landowner shall give in such manner as may be prescribed not less than three months notice in writing intimating the cultivating tenant of his decision to resume possession of the land and the notice shall expire with the end of the agricultural year in which such notice is given.

62. *Landowner's right to resume land for personal cultivation in certain cases.*—Any landowner who—

(i) on the date of the commencement of this Act held land not exceeding five standard acres, and

(ii) is not assessed to income-tax under the Indian Income-tax Act, 1922 (Central Act XI of 1922) for the previous year as defined in section 2 (11) of that Act,

may, at any time before the expiry of two years from the notified date resume possession of land from the cultivating tenant for the purpose of personal cultivation :

Provided that the extent of land so resumable by the landowner together with the extent of land, if any, already under his personal cultivation and the extent of land, if any, the possession of which reverted to him under section 17, shall not exceed three standard acres :

Provided further that such landowner shall give in such manner as may be prescribed not less than three months' notice in writing intimating the cultivating tenant of his decision to resume possession of the land and the notice shall expire with the end of the agricultural year in which such notice is given.

63. *Right to resumption of land from cultivating tenant holding land exceeding five standard acres.*—(1) Where the extent of land, if any, held by any person as owner, together with the other land held by him as cultivating tenant exceeds five standard acres, any landowner under whom such cultivating tenant is holding land may, during the period mentioned in section 61, resume possession of his land in such excess from the cultivating tenant for the purpose of personal cultivation :

Provided that the landowner shall give in such manner as may be prescribed, not less than three months' notice in writing intimating the cultivating tenant of his decision to resume possession of the land and the notice shall expire with the end of the agricultural year in which such notice is given.

(2) Where in any case more than one landowner makes an application for the resumption of his land from the same cultivating tenant under sub-section (1), the authorized officer shall pass such order as he deems fit having regard to—

(i) the total extent of land held by each such landowner;

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(ii) the extent of land under his personal cultivation;

(iii) the extent of land the possession of which is sought to be resumed; and

(iv) such other matters as may be prescribed.

64. *Member of the Armed Forces to resume land up to the ceiling area.*—Notwithstanding anything contained in this Chapter, any member of the Armed Forces may, after discharge or release from the service of the Air Force, Army or Navy of the Union of India, or of the Merchant Navy, as the case may be, resume possession of land up to the ceiling area from the cultivating tenant for the purpose of personal cultivation :

Provided that such member shall give in such manner as may be prescribed not less than three months' notice in writing intimating the cultivating tenant of his decision to resume possession of the land and the notice shall expire with the end of the agricultural year in which such notice is given.

65. *Landowner or member of the Armed Forces to apply to the authorized officer.*—(1) Any landowner or member of the Armed Forces desiring to resume possession of any land under section 61, 62, 63 or 64, as the case may be, . . . may make an application to the authorized officer in such form as may be prescribed and on receipt of such application the authorized officer shall, after giving a reasonable opportunity to the landowner or member of the Armed Forces, as the case may be, and the cultivating tenant . . . to make their representations, hold a summary enquiry into the matter and pass an order either directing the cultivating tenant . . . to put the landowner or member of the Armed Forces, as the case may be, in possession of the land or dismissing the application. In passing an order directing the cultivating tenant . . . to put the landowner or member of the Armed Forces, as the case may be, in possession of the land, the authorized officer may impose such conditions as he may consider just and equitable including conditions in regard to reimbursement by the landowner or member of the Armed Forces, as the case may be, of the cultivating tenant . . . in respect of the expenses incurred by him or the labour contributed by him in respect of any crop which has not been harvested, if an agreement is not reached between the parties as regards the amount and manner of such reimbursement.

Explanation.—In lieu of imposing any condition relating to reimbursement as provided above, the authorized officer may in his discretion postpone the restoration of the possession of the land to the landowner or member of the Armed Forces, as the case may be, until the harvest of any crop standing at the time when the order is passed.

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(2) If any landowner or member of the Armed Forces who has resumed possession from any cultivating tenant of any land for personal cultivation lets the land for cultivation by another tenant within five years of such resumption or allows the land to lie fallow for more than a year or has so resumed under fraudulent misrepresentations, the cultivating tenant from whom the land had been resumed shall on application to the authorized officer be entitled to be restored to possession of that land and to hold it with all the rights and subject to all the liabilities of a cultivating tenant. The provisions of sub-section (2) of section 66 shall, as far as may be, apply to such an application.

65. *Right to restoration of possession.*—(1) Any cultivating tenant who has been evicted in contravention of the provisions of section 60, 61, 62, 63 or 64 may make an application to the authorized officer within whose jurisdiction the land from which he was evicted or the major part thereof is situated, within a period of two months from the date of such eviction for the restoration to him of the possession of the land from which he was evicted and to hold it with all the rights and subject to all the liabilities of a cultivating tenant :

Provided that the application may be received after the period of two months aforesaid if the authorized officer, for reasons to be recorded in writing, is satisfied that the applicant had sufficient cause for not applying within that period.

(2) (*a*) On receipt of an application under sub-section (1), the authorized officer shall, after giving a reasonable opportunity to the landowner or member of the Armed Forces, as the case may be, and the cultivating tenant, if any, in possession of the land, to make their representations, hold a summary inquiry into the matter and pass an order either allowing the application or dismissing it.

(*b*) In passing an order under clause (*a*) allowing the application, the authorized officer may impose such conditions as he may consider just and equitable including conditions in regard to the reimbursement by the applicant of the landowner or member of the Armed Forces, as the case may be, or any other person in possession of the land in respect of the expenses incurred or the labour contributed by him during the period when the applicant was not in possession, in respect of any crop which has not been harvested, if an agreement is not reached between the parties as regards the amount and manner of such reimbursement.

Explanation.—In lieu of imposing any condition relating to reimbursement as provided in clause (*b*), the authorized officer may, in his discretion, postpone the restoration of the possession of the land to the applicant until the harvest of any crop standing at the time when the order is passed.

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67. *Cultivating tenant to furnish return in certain cases.*—(1) Any cultivating tenant who holds on the notified date land in excess of the cultivating tenant's ceiling area shall, within such time after that date as may be prescribed furnish to the authorized officer a return containing the following particulars, namely :—

(i) particulars of the land, if any, which he holds as owner;

(ii) particulars of the land which he holds as cultivating tenant;

(iii) particulars of the name and address of the landowner concerned;

(iv) such other particulars as may be prescribed.

(2) The authorized officer shall cause to be served on the landowner concerned in such manner and within such time as may be prescribed, a copy of the return furnished by the cultivating tenant under sub-section (1).

(3) The landowner concerned may make an application to the authorized officer for resuming possession of the land in accordance with the provisions of this Chapter.

(4) If the cultivating tenant fails to furnish the return or furnishes an incorrect or incomplete return within the time prescribed under sub-section (1), the provisions of sub-sections (1) and (2) of section 9 shall, as far as may be, apply as if it were a return required to be furnished under section 8.

Explanation.—For the purposes of this section, " cultivating tenant's ceiling area " means five standard acres held by any person partly as cultivating tenant and partly as owner or wholly as cultivating tenant.

68. *Landowner's power to alter holding in certain cases.*—(1) Subject to such rules as may be made by the Government, it shall be lawful for any landowner to alter the holding of any of his cultivating tenants so as to secure a convenient block for personal cultivation by himself or for cultivation by any or all of his cultivating tenants.

(2) If any dispute arises in regard to the alteration under sub-section (1), either party may make an application to the authorized officer within whose jurisdiction the holding or the major part thereof is situated for deciding such dispute. The authorized officer shall decide such dispute in accordance with such procedure as may be prescribed.

69. *Effect of certain Acts.*—The provisions of the Madras Cultivating Tenants Protection Act, 1955 (Madras Act XXV of 1955), the Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956 (Madras Act XXIV of 1956), the Tiruchirappalli Kaiaeruvaram and Mattuvaram Act, 1958 (Madras Act

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XXXVI of 1958) and any other law relating to tenancy shall, except in so far as they are inconsistent with any of the provisions of this Chapter, continue in force.

. . . .

CHAPTER IX.

EXEMPTIONS.

70. *Exemptions.*—Except as otherwise provided in sub-sections (2) and (3) of section 5 and in section 6, nothing contained in this Act shall apply to—

(i) any land held by the Central Government or any State Government or any local authority;

(ii) any land held by—

(*a*) any charitable or educational institution of a public nature;

(*b*) any trust;

(*c*) any University constituted by any law;

(iii) any land owned by such co-operative societies [other than societies registered or deemed to have been registered under the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932) or under the Travancore-Cochin Co-operative Societies Act, 1951 (Travancore-Cochin Act X of 1952)] as are approved by the Government;

. . . .

(iv) any land held by any industrial or commercial undertaking (other than a co-operative society) which, in the opinion of the Government, *bona fide* carries on any industrial or commercial operation and which is approved by the Government:

Provided that such approval shall be subject to such conditions as may be prescribed:

Provided further that such land shall be exempt only so long as the said conditions are complied with;

(v) any land in any hill area;

(vi) all plantations in existence on the date of the commencement of this Act;

(vii) lands converted on or before the 1st day of July 1959 into orchards or topes or arecanut gardens, whether or not such lands are contiguous or scattered:

Provided that such lands shall be exempt only so long as they continue to be orchards, topes or arecanut gardens;

(viii) any land used exclusively for growing fuel trees on the date of the commencement of this Act:

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Provided that such land shall be exempt only so long as such land is used for such purpose;

(ix) Gramdan land and land donated for purposes of the Bhoodan Yagna;

(x) any land used exclusively for dairy farming or livestock breeding and in respect of which the Land Board has granted permission under section 27 and such permission continues in force;

(xi) any land---

(*a*) interspersed among plantations, or

(*b*) contiguous to any plantation,

in existence on the date of the commencement of this Act in any area other than a hill area and in respect of which the Land Board has granted permission under section 31 and such permission continues in force;

(xii) any land awarded for gallantry to defence personnel :

Provided that such land shall be exempt only for the lifetime of the person to whom the award was granted;

(xiii) any land used for the cultivation of sugarcane and in respect of which the Sugar Factory Board has granted permission under section 40 or 43 and such permission continues in force.

71. *Special provision for grazing lands.*—Notwithstanding anything contained in this Act, if any person has, on the date of the commencement of this Act, held land used exclusively for grazing and assessed to land revenue at Rs. 1·25 and below per acre, he shall be entitled to hold such grazing land up to an extent of fifty acres in addition to the ceiling area :

Provided that nothing contained in this section shall entitle any person to hold land for grazing if such person has been granted permission by the Land Board under section 27 to hold any land for dairy farming or livestock breeding.

Explanation.—Any land used exclusively for grazing shall not cease to be grazing land merely by reason of the ploughing or preparing the soil for the sowing of fodder seeds or of the raising or harvesting of fodder crops.

72. *Grazing land to be taken into account for ceiling area in certain cases.*—Notwithstanding anything contained in section 71, if either of its own motion or on application by any person the Land Board decides that such grazing land as is referred to in section 71 has become fit for cultivation as a result of any irrigation project constructed at the cost of the Government, such land shall be taken into account for

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calculating the ceiling area and the person holding such land shall furnish a return containing the particulars required under section 8 and the provisions of section 9 and other provisions of this Act shall, as far as may be, apply to such return.

CHAPTER X.

LAND TRIBUNALS.

73. *Constitution of Land Tribunals.*—(1) The Government shall constitute as many Land Tribunals as may be necessary for the purposes of this Act.

(2) Each Land Tribunal shall consist of one person only who shall be a judicial officer not below the rank of Subordinate Judge.

74. *Jurisdiction and powers of Land Tribunals.*—(1) Each Land Tribunal shall have such jurisdiction over such areas as the Government may, by notification, from time to time, determine.

(2) If any question is referred by the authorized officer to the Land Tribunal for its decision under section 11 (2), 16 (3) (*a*) (iv) or 51 (3), the Land Tribunal shall deceide such question.

(3) Every Land Tribunal shall have the same powers as are vested in a civil court under the Code eof Civil Procedure, 1908 (Central Act V of 1908).

CHAPTER XI.

APPEALS AND REVISION.

75. *Appeal to Land Tribunal.*—(1) . . . Against any decision of the authorized officer under section 9 (2) (*b*), 10 (3), (4), (5), 16 (3) (*a*) (iii), 20, 22, 50 (4), 51 (1), (2), 52 or 99 (2) (*b*), the Government may within ninety days from the date of the decision and any person aggrieved by such decision, may, within sixty days from the date of such decision, appeal to the Land Tribunal.

. . . . . .

(2) The Land Tribunal may admit an appeal presented after the expiration of the period mentioned in sub-section (1), if it is satisfied that the party concerned had sufficient cause for not presenting it within the said period.

(3) On receipt of an appeal under sub-section (1), the Land Tribunal, after giving the parties a reasonable opportunity of being heard, shall—

(*a*) determine a case finally;

(*b*) remand a case;

(*c*) take additional evidence or require such evidence to be taken by the authorized officer.

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76. *Appeal to the High Court.*—(1) Against a decision of the Land Tribunal under section 11 (3) or 74 (2) the Government may, within sixty days from the date of the decision and any person aggrieved by such decision may within thirty days from the date of the decision, appeal to the High Court :

Provided that the High Court may admit an appeal presented after the expiration of the said period if it is satisfied that the party concerned had sufficient cause for not presenting it within the said period.

(2) The High Court, after giving the parties a reasonable opportunity of being heard, shall—

(*a*) determine a case finally;

(*b*) remand a case;

(*c*) take additional evidence or require such evidence to be taken by the Land Tribunal.

Explanation.—In this section and in section 75, " date of the decision " means the date on which such decision is communicated to the party concerned.

77. *Limitation Act to apply to appeal under section* 75 *or* 76.—The provisions of section 4 and of sub-sections (1) and (2) of section 12 of the Indian Limitation Act, 1908 (Central Act IX of 1908) shall, as far as may be, apply to any appeal under section 75 or 76.

78. *Revision by the Land Tribunal.*—The Land Tribunal may call for and examine—

(i) the record of any authorized officer within its jurisdiction in respect of any proceeding under section 12, 13, 14 (1), (2), (3), 50 (5), (9), 60 (2), 65 (1), (2) or 66, or

(ii) the record of any proceeding under sub-section (2) of section 54;

to satisfy itself as to the regularity of such proceeding or the correctness, legality, or propriety of any decision or order passed thereon; and if, in any case, it appears to the Land Tribunal that any such proceeding, decision or order should be modified, annulled, reversed or remitted for reconsideration, it may pass orders accordingly :

Provided that the Land Tribunal shall not pass any order prejudicial to any party unless he has been given a reasonable opportunity of being heard.

79. *Revision by the Land Commissioner.*—The Land Commissioner may call for and examine the record of any authorized officer in respect of any proceeding under section 9 (3), (4), 17 (3), 18 (4) or 68 (2) and in respect of any other proceeding under this Act not being a proceeding in respect of

which a suit or an appeal or revision to the Land Tribunal is provided by this Act to satisfy himself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed thereon; and if, in any case, it appears to the Land Commissioner that any such proceeding, decision or order should be modified, annulled, reversed or remitted for reconsideration, he may pass orders accordingly :

Provided that the Land Commissioner shall not pass any order prejudicial to any party unless he has been given a reasonable opportunity of being heard.

80. *Revision by High Court.*—Subject to the provisions of section 76, every Land Tribunal shall be deemed to be a Court subordinate to the High Court for the purposes of section 115 of the Code of Civil Procedure, 1908 (Central Act V of 1908), and its orders shall be liable to revision by the High Court under the provisions of that section.

81. *Power to stay.*—The High Court, the Land Tribunal or the Land Commissioner may stay the execution of any decision or order pending the exercise of its or his powers under this Chapter.

CHAPTER XII.

PENALTIES AND PROCEDURE.

82. *Penalty for failure to furnish return.*—(1) If any person who is under an obligation to furnish a return under this Act, refuses or wilfully fails to furnish the return within the time specified in the notice under sub-section (1) of section 9 or within the further time, if any, allowed by the authorized officer under that sub-section, he shall be punishable with fine which may extend to two hundred rupees.

(2) If any person who, after having been convicted under sub-section (1), continues to refuse or to wilfully fail to furnish the return, he shall be punishable with fine which may extend to fifty rupees for each day after the previous date of conviction during which he continues so to offend.

83. *Penalty for failure to furnish information under section 99.*—If any person refuses or wilfully fails to furnish the information under sub-section (1) of section 99 within the time specified in the notice under that sub-section or within the further time, if any, allowed by the authorized officer under that sub-section, such person shall be punishable with fine which may extend to two hundred rupees.

84. *Penalty for furnishing false return or information.*—If any person who is under an obligation to furnish any return or information under this Act, furnishes any return or information which he knows or has reason to believe to be false, he shall be punishable with fine which may extend to one thousand rupees.

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85. *Penalty for making false declaration under section 19.*—If any person makes any declaration before the registering authority under sub-section (1) of section 19 which he knows or has reason to believe to be false he shall be punishable with fine not exceeding one thousand rupees.

86. *Penalty for acquisition by lease or possessory mortgage in excess of the ceiling area.*—If any person, on or after the notified date, voluntarily acquires by lease or possessory mortgage any land which together with the land, if any, already held by him exceeds in the aggregate the ceiling area, he shall be punishable with fine not exceeding one thousand rupees.

. . . .

87. *Penalty for contravention of any lawful order.*—If any person wilfully contravenes any lawful order passed under this Act or obstructs any person from lawfully taking possession of any land acquired by te Government under this Act he shall be punishable with fine which may extend to five hundred rupees.

88. *Penalty for cutting trees or for removing any machinery, etc.*—If any person, after the date of vesting in the Government of any land acquired under this Act and before the disposal of such land under this Act, cuts or causes to be cut, trees on the land, or removes or causes to be removed, any building, machinery, plant or apparatus, constructed, erected or fixed on the land, and used for agricultural purposes, or does or causes to be done any act likely to diminish the utility of the land, he shall be punishable with imprisonment for a term which may extend to one year, or with fine not exceeding one thousand rupees, or with both.

89. *Offences by companies.*—(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, . . . **any director, manager, secretary or other officer of the company,**

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such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(*a*) "company" means any body corporate and includes a firm or other association of individuals, and

(*b*) "director" in relation to a firm means a partner in the firm.

90. *Cognizance of offencee*—(1) No court shall take cognizance of any offence punishable under this Act except on complaint in writing made by the authorized officer or any officer empowered by him by special order.

(2) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

CHAPTER XIII.

Disposal of Land acquired by the Government under this Act.

91. *Disposal of land acquired by the Government.*—(1) Subject to the provisions of sub-section (2), the Government may, after taking into consideration the objects specified in the preamble, make rules providing for the manner in which any land acquired by the Government under this Act shall be disposed of :

Provided that no such rules shall come into force unless they are approved by . . . . the Legislature.

(2) (*a*) In the disposal of the land acquired by the Government under this Act, the Government shall give preference to any person who is completely dispossessed of his holding, or whose extent of holding is reduced below three standard acres held by him partly as cultivating tenant and partly as owner or wholly as cultivating tenant, by virtue of the provisions of this Act.

(*b*) Where any surplus land acquired under this Act is held by any existing sugar factory as tenant or as possessory mortgagee, immediately before the date of the acquisition, the Government shall, in the disposal of such land, take into consideration the recommendation of the Sugar Factory Board in that behalf.

. . . . . .

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CHAPTER XIV.

MISCELLANEOUS.

92. *Conversion of one kind of land into another not to affect ceiling area in certain cases.*—Notwithstanding anything contained in this Act, where on account of any improvements made in the land by or at the cost of the person holding such land, one kind of the lands specied in clause (42) of section 3 is converted into another kind of lands specified in the said clause after the date of the publication of the final statement under section 12 or 14, such conversion shall not be taken into account in calculating the extent of land held by such person. But where such conversion takes place as a result of any irrigation project constructed at the cost of the Government, the land so converted shall be reduced to standard acres according to the proportion specified in the clause aforesaid, and the ceiling area of such person shall be fixed in accordance with the provisions of this Act.

93. *Decrease in number of members of family not to affect ceiling area.*—Notwithstanding anything contained in this Act, the extent of ceiling area which a family is entitled to hold under the provisions of this Act, immediately after the date of the publication of the final statement under section 12 or 14, shall not be reduced by reason only of any decrease after the said date in the number of members of such family..

94. *Appointment of Land Commissioner.*—The Government may appoint any member of the Board of Revenue as Land Commissioner for the State to exercise such powers and discharge such duties as are assigned to him by or under this Act.

95. *Power of Government to issue orders and directions to the authorized officer, etc.*—The Government may issue such orders and directions of a general character as they may consider necessary in respect of any matter relating to the powers and duties of the authorized officer, the Land Board, the Sugar Factory Board and the Land Commissioner. The authorized officer, the Land Board, the Sugar Factory Board and the Land Commissioner shall give effect to all such orders and directions.

96. *Transfer of proceedings from one authorized officer to another.*—(1) On the application of any of the parties or of his own motion—

(*a*) the Collector of the district may at any stage after giving the parties a reasonable opportunity of being heard, transfer any application or other proceeding under this Act pending before any authorized officer in the district for disposal to any other authorized officer in the same district;

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(b) the Land Commissioner may at any stage after giving the parties a reasonable opportunity of being heard, transfer any application or other proceeding under this Act pending before any authorized officer in any district for disposal to any other authorized officer in any other district.

(2) Where any application or proceeding has been transferred under sub-section (1), the authorized officer to whom such transfer is made may, subject to any special directions given in the order of transfer, either hold the inquiry *de novo* or proceed from the stage at which the said application or other proceeding stood when it was transferred.

97. *Returns and reports.*—The authorized officer, the Land Commissioner, the Land Board or the Sugar Factory Board shall furnish to the Government such returns, statistics, accounts and other information as the Government may from time to time require.

98. *Authorized officer empowered to obtain information from Court, etc.*—The authorized officer may obtain from any Court, Land Board, Sugar Factory Board, Land Tribunal or other authority any information relating to any proceeding pending before the authorized officer, and such Court, Land Board, Sugar Factory Board, Land Tribunal or authority, as the case may be, shall, if such information be available with it, furnish him with such information within a reasonable period.

99. *Authorized officer empowered to obtain information from persons.*—(1) For the purpose of carrying into effect the provisions of this Act, the authorized officer may, by notice, require any person to furnish any information relating to the extent of land held by such person, the number of members of the family, if any, of such person, and such other particulars as may be prescribed. The person aforesaid shall furnish the information to the authorized officer within such time as may be specified in the notice or within such further time not exceeding thirty days as the authorized officer may, in his discretion, allow.

(2) (a) Where any person on whom notice under sub-section (1) has been served fails to furnish the information within the time specified in that notice or within the further time allowed by the authorized officer under sub-section (1), the authorized officer may obtain, in such manner as may be prescribed, the necessary information either by himself or through such agency as he thinks fit.

(b) The authorized officer shall, as soon as may be after obtaining the information under clause (a), give to the person concerned a reasonable opportunity of making his representation and of adducing evidence, if any, in respect of such information and consider any such representation and evidence and pass such orders as he deems fit.

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100. *Costs.*—The costs of, and incidental to, all proceedings before the authorized officer, Land Commissioner land Board, Sugar Factory Board, Land Tribunal or other authority shall be in his or its discretion.

101. *Power to enter upon land.*—The authorized officer or any person acting under his orders may at any time enter upon any land but not a dwelling-house, with such other officers or persons as he considers necessary and make a survey and take measurements thereof or do any other act which he considers necessary for carrying out the purposes of this Act.

102. *Indemnity.*—(1) No suit, prosecution or other legal proceeding shall lie against the authorized officer, Land Board, Sugar Factory Board, Land Commissioner, Land Tribunal or other authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by virtue of any provision of this Act or by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

103. *Preparation of record of rights.*—The Government may, for the purposes of this Act, cause to be prepared and published a record of rights in accordance with such rules as may be made by them.

104. *Bar of jurisdiction of civil courts.*—Except as otherwise provided in this Act, no civil court shall have jurisdiction to decide or deal with any question which is by or under this Act required to be decided or dealt with by the authorized officer, the Land Board, the Sugar Factory Board, the Land Commissioner, the Land Tribunal or other authority.

105. *Court-fees.*—The court-fee payable in respect of—

(*a*) any suit under sub-section (3) of section 11, shall be twenty-five rupees;

(*b*) any appeal to the Land Tribunal under section 75 shall be five rupees;

(*c*) any appeal to the High Court under section 76, shall be twenty-five rupees;

(*d*) any application for revision by the Land Tribunal under section 78 or for revision by the Land Commissioner under section 79, shall be one rupee;

(*e*) any application for revision by the High Court under section 80, shall be ten rupees;

(*f*) any other casee, shall be such fee as may be prescribed.

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106. *Delegation of powers.*—The Government may, by notification, direct that any power exercisable by the Land Commissioner or any authorized officer, under this Act or the rules made thereunder, shall in relation to such matters and subject to such conditions, as may be specified in such notification, be exercisable also by such officer or authority subordinate to the Government, as may be specified in the notification.

107. *Power to make rules.*—(1) The Government may, . . . make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) all matters expressly required or allowed by this Act to be prescribed;

(*b*) the manner of service of notice under this Act;

(*c*) the manner of giving reasonable opportunity or of adducing evidence under this Act;

(*d*) the minimum extent of land which any person shall hold in order to entitle him to hold any land for dairy farming or livestock breeding;

(*e*) the place at which and the manner in which the draft statement under sub-section (5) of section 10 and the final statement under section 12 or 14 may be published;

(*f*) the manner of service of a copy of the final statement under section 12 or 14;

(*g*) the manner of publication of a proclamation under clause (*a*) of sub-section (2) of section 18;

(*h*) the qualifications which shall be possessed by the members nominated under clause (*d*) of sub-section (2) of section 24;

(*i*) the manner in which the draft compensation assessment roll may be published under sub-section (3) of section 50;

(*j*) the manner of apportionment of the compensation payable under this Act among the persons claiming interest in such compensation;

(*k*) the procedure to be followed by the authorized officer under this Act;

(*l*) the terms and conditions of service of the Chairman and members of the Land Board and of the Sugar Factory Board;

(*m*) the manner in which, and the officer by whom, fair rent shall be ascertained for the purposees of this Act;

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(n) the circumstances under, and the conditions subject to, which, and the authority or officer before whom any amount of compensation payable under this Act may be kept in deposit;

(o) the manner of payment of the amount of compensation so deposited to the persons entitled thereto;

(p) the manner of communicating to the party concerned a copy of every decision or order in any proceeding against which an appeal or revision is provided for by this Act.

108. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order do anything which appears to them necessary for the purpose of removing the difficulty.

109. *Rules and orders to be placed before the Legislature.*—(1) All rules made under this Act other than those made under section 91 and all orders made under section 108 shall be published in the *Fort St. George Gazette* and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(2) Every rule made under this Act other than that made under section 91 and every order made under section 108 shall, as soon as possible after it is made, be placed on the Table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or order or both Houses agree that the rule or order should not be made, the rule or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or order.

SCHEDULE I.

[*See* section 3 (18).]

District.	Taluk.	Revenue number and name of village.
(1)	(2)	(3)
North Arcot ..	Vellore ..	115. Palamathi.
		139. Alleri.
		140. Elluparai.
		141. Pudukuppam.
		142. Peenjamandai.
		143. Jarthankollai.
		144. Pelambattu.
		145. Periapanaparai.
		146. Mulluvadi.
		147. Naickaneri.

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District.	Taluk.	Revenue number and name of village.
(1)	(2)	(3)
North Arcot—*cont.*	Chengam ..	1. Padapenjamarthur.
		2. Puliyur.
		3. Melthathiapet.
		4. Kilthathiapet.
		5. Nellivoy.
		6. Erukkambattu.
		7. Athipet.
		8. Perumutham.
		9. Kilpettu.
		10. Chennakilpettu.
		11. Melpattu.
		12. Vannankuttai.
		13. Palamarathur.
		14. Melsilambadi.
		49. Melmalachi.
		50. Akkarapattu.
	Polur ..	66. Kuttakarai.
		67. Pattiraikadu.
		68. Melsippili.
		69. Erumaianur.
		70. Kilthatiapattur.
		163. Kanamalai.
		164. Amirthi.
		165. Nammiampattu.
		166. Eriyur.
		167 Kilkanavayyur
		168. Puliankuppam.
		169 Seenagadu.
		170 Mandaparai.
		171. Veerappanur.
		172. Pudupattu.
		173. Odamangalam.
		174. Kovilur.
Salem ..	Krishnagiri ..	155. Maravadi.
		157. Murukkalnatham.
	Salem ..	133. Jarugumalai.
		181. Pelappadi.
		182. Arunuttumalai.
		183. Sirumalai.
		184. Pallikkadu.
		185. Aladipatti.
		186. Periyavelampatti.
		187. Siruvelampatti.
		All villages in Yercaud sub-taluk.
	Namakkal ..	46. Valappurnadu.
		48. Ariyarnadu.
		49. Valavandinadu.
		50. Selurnadu.
		51. Thinnanurnadu.
		52. Devanurnadu.

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District. (1)	Taluk. (2)	Revenue number and name of village. (3)
Salem—*cont.*	Rasipuram ..	31. Kilur.
		36. Melur.
		38. Gidamalai.
		50. Perikarainadu.
		51. Bailnadu.
		52. Edappulinadu.
		53. Sitturnadu.
		68. Thiruppulinadu.
		69. Pelappadinadu.
		70. Alathurnadu.
		71. Kunduninadu.
		72. Adakkampudukkombai.
	Attur	87. Pachamalai.
		Chinnakalrayan Hills.
		Periakalrayan Hills.
Coimbatore ..	Pollachi ..	87-A. Anamalai Hills.
	Bhavani ..	63. Barugur.
	Gobichetti-palayam.	131 Guthialathur.
		132. Gundri.
		133. Koothampalayam.
		135. Hasanur.
		136. Thingalur.
		137. Gettavadi.
		138. Marur.
		139. Talavadi.
		140. Chikkagazanur.
		141. Thiganarai.
		142. Mallanguli.
		143. Arulavadi.
		144. Doddagazanur.
		145. Byyannapuram.
		146. Karalavadi.
		147. Talamalai.
		148. Eragan ahalli.
		149. Naithalapuram.
		150. Iggalur.
		151. Panakahalli.
		152. Kongahalli.
		153. Thoddamudugarai.
		154. Mad ahalli.
Tiruchirappalli.	Musiri ..	112. Tenparanadu.
		113. Vannadu.
		114. Kombai.
Madurai	Periakulam.	Narasingapuram.
		Ahamalai.
		Kottagudi.
	Palni ..	8. Vadakavunji.
		69. Vadagadu.
	Dindigul ..	Adalur.
		Panrimalai.
		Tonimalai.

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District. (1)	Taluk. (2)	Revenue number and name of village. (3)
Madurai—*cont.*	Dindigul —*cont.*	Manalur. Sirumalai.
	Kodaikanal.	All villages.
The Nilgiris ..	All taluks ..	All villages.
South Arcot ..	Kallakurichi.	The following villages in Sadayakounder Jagir ;— Aliyam. Arampoondi. Devanur. Eluthur. Alanur. Erukkampatti. Gangapadi. Kariyalur. Karnelli. Karuvelampadi. Kariyam. Kindikal. Kidar. Kinathur. Kodamathi. Koduthorai. Kundianatham. Madhar. Mavadipattu. Melmuruvam. Molipatti. Mondiyur. Naraiyampatti. Nochimedu. Pocheri. Pudur. Sathanur. Sundarapadi. Tharangur. Thirupathi. Thoradipattu. Uppur. Varapadi. Vandapadi. Vanniyur Vellampadi. Vellimalai. Vellar. Varam.
		The following villages in Kurumbakounder Jagir :— Arasampattu. Athikuli.

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District.	Taluk.	Revenue number [redacted] and name of village.
(1)	(2)	(3)
South Arcot—*cont.*	Kallakurichi —*cont.*	Athipattu.
		Avalur.
		Chinnapalapoondi.
		Erikarai.
		Erukkampattu.
		Idapattu.
		Innadu.
		Keeripuli.
		Kurumbalur.
		Mankombu.
		Mottayanur.
		Pakkanam.
		Panapadi.
		Pelapundi.
		Perukkancheri.
		Perumbaravu.
		Porasapattu.
		Poruppam.
		Sirukalur.
		Serapatti.
		Thaduthalpalayam.
		Thakkampattu.
		Thumbarampattu.
		Valakuli.
		Vanjikuli.
		Vedur.
		Velanalli.
		Venkadu.
		The following villages in Ariyakounder Jagir :—
		Aravankadu.
		Eachankadu.
		Gudaram.
		Kalliparai.
		Kannur.
		Karvampattu.
		Kilkadu.
		Kilthukkadi.
		Kotampundi.
		Melthukkadi.
		Naduvalathu.
		Nakkavalathu.
		Panipalayam.
		Perumanatham.
		Pudur.
		Undakalvalathu.
		Vellithi.
		Vengamur.

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SCHEDULE II.

(*See* section 3 (27).]

Serial number	District.	Taluk.	Revenue number and name of village.	Extent of the leasehold.
(1)	(2)	(3)	(4)	(5)
1	Chingleput ..	Saidapet ..	13 Grant Lyon.	Whole village.
2	Do.	Ponneri	146. Karadiputhur.	Do.
3	Do. ..	Do.	147. Kannankottai.	Do.
4	Do. ..	Do.	150. Thervoy. ..	Do.
5	Do. ..	Do.	151. Kandigai ..	Do.
6	Do. ..	Do.	180. Papankuppam *alias* Alamelu-mangapuram.	Do.
7	Madras ..	..	121. Ikkattutangal.	Do.
8	Salem ..	Harur	317. Hunisanahalli	Do.
9	Do. ..	Do.	318. Sillarhalli ..	Do.
10	Do. ..	Do.	321. Regadahalli	Do.
11	Do. ..	Do.	322. Mottankurichi	Do.

SCHEDULE III.

(*See* section 50.)

PART I.

Land other than the land specified in Part II.

1. The compensation payable to any person under section 50 in respect of any land (other than the land specified in Part II) acquired by the Government under this Act shall be determined in the manner hereinafter in this Part specified.

2. A sum equivalent to the net annual income from the land shall be determined in the first instance.

3. The net annual income from the land shall be the amount of fair rent less the land revenue.

Explanation.—In this paragraph, "land revenue" shall,—

(*a*) in respect of any land in any area in the State other than the transferred territory, have the same meaning as in Explanation I to section 3 (42) and shall include cess, additional surcharge and charge for water ;

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(*b*) in respect of any land in the transferred territory and specified in column (1) of the Table below, mean the amount mentioned in the corresponding entry in column (2) thereof :—

TABLE.

Class of land. (1)	Amount per acre. (2)	
Kanyakumari district.	RS.	nP.
(1) Registered wet land irrigated by a source forming part of, or benefited by, a project as defined in Explanation III to clause (42) of section 3	11	37
(2) Registered dry land irrigated by the source specified in item (1)	8	37
(3) Dry land irrigated by other Government source	6	25
(4) Unirrigated dry land	1	25
Shencottah taluk of the Tirunelveli district.		
(1) Wet land irrigated by any river or stream or by tank fed by any river or stream	8	50
(2) Wet land irrigated by other Government source.	6	62
(3) Dry land irrigated by any Government source.	6	25
(4) Unirrigated dry land	1	25

4. The fair rent shall be the aggregate of—

(*a*) (i) in the case of wet land, 40 per cent of the normal gross produce or its value in money ;

(ii) in the case of wet land, the irrigation of which is supplemented by lifting water, 35 per cent of the normal gross produce or its value in money ;

(iii) in the case of land on which crops, which do not give any yield within a period of one year from the time of cultivation, are cultivated, 40 per cent of the normal gross produce or its value in money ;

(iv) in the case of any other class of land, 33-1/3 per cent of the normal gross produce or its value in money :

Provided that in the case of lands referred to in items (ii) and (iv) for the cultivation of which water is lifted by pump set installed at the cost of the landowner, the fair rent shall be increased to 40 per cent.

Explanation I.—In this paragraph, "normal gross produce"—

(*a*) in respect of a land cultivated with any crop which does not give any yield within a period of one year from the time of cultivation, means the gross produce for one year if the land were cultivated with paddy ;

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(b) in respect of a land cultivated with any other crop means the produce which would be obtained for one year from a land of the same class as the land in question similarly situated and possessing similar advantages if the rainfall and the seasons were normal.

Explanation II.—In the case of . . . land on which different crops are cultivated at different times on different portions of the land, the fair rent shall be calculated with reference to the actual crops ordinarily cultivated according to the ordinary rotation of crops in the area in which such land is situated ;

and

(b) the value of one-fifth of the straw or stalk of all the crops cultivated on the land in an agricultural year.

5. In the case of land under personal cultivation, the fair rent shall be the fair rent as calculated in the manner specified in paragraph 4 in respect of a land of the same class as the land in question, similarly situated and possessing similar advantages.

6. The amount of compensation for the land acquired by the Government under this Act shall be determined in accordance with the following scale, namely :—

(i) for the first sum of Rs. 5,000 or any portion thereof of the net annual income from the land, 12 times such sum or portion ;

(ii) for the next sum of Rs. 5,000 or any portion thereof of the net annual income from the land, 11 times such sum or portion ;

(iii) for the next sum of Rs. 5,000 or any portion thereof of the net annual income from the land, 10 times such sum or portion ;

(iv) for the balance of the net annual income from the land, 9 times such balance.

7. The compensation payable for any tree, building, machinery, plant or apparatus acquired under this Act shall be the value on the date of the publication of the notification under sub-section (1) of section 18 of such tree, building, machinery, plant or apparatus.

8. The compensation payable under this Part shall be the aggregate of the amount as calculated under . . . paragraphs 6 and 7 less the amount payable as compensation under section 54 to the tenant, in respect of the land concerned.

9. (a) In respect of any land in the transferred territory, 75 per cent of the amount of compensation calculated under this Part shall be payable in advance of the completion of the survey and ryotwari settlement of the land under Chapter VII.

(b) On such completion of survey and ryotwari settlement, the compensation shall be revised on the basis of the assessment specified at the ryotwari settlement and of water rate, if any. If on such revision it is found that the amount of compensation paid under sub-paragraph (a) is in excess of the amount of compensation payable as a result of the revision aforesaid, such excess amount

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shall be recovered from the person concerned as an arrear of land revenue. But where the amount of compensation paid under sub-paragraph (*a*) is less than the amount of compensation payable as a result of the revision aforesaid, the deficiency shall be made good to the person concerned.

PART II.

Land the revenue of which or portion thereof has been assigned.

Where the amount of land revenue or portion thereof in respect of any land acquired by the Government under this Act has been assigned in favour of any person, the Government shall pay such person as compensation twelve times the difference between such amount of land revenue or portion thereof and the proportionate quit-rent, jodi, kattubadi or other amount of like nature, if any, payable by such person to the Government.

SCHEDULE IV.

(*See* section 54.)

1. The compensation payable to any tenant under section 54 . . . . shall be one-eighth of the fair rent for the land calculated in the manner specified in paragraph 4 of Part I of Schedule III.

2. Out of the compensation, three-fourths shall be paid to the cultivating tenant and one-fourth to the intermediary.

FORT ST. GEORGE,
MADRAS.

T. HANUMANTHAPPA,
Secretary.

APPENDIX I.

QUESTIONNAIRE ISSUED BY THE JOINT SELECT COMMITTEE APPOINTED BY THE LEGISLATURE.

1. Do you agree that the date of commencement of the proposed Ceiling Act may be the date of publication of the Ceiling Bill in the *Fort St. George Gazette*, viz., 6th April 1960?

2. Do you agree with the definitions contained in clause 2 of the Bill in general and in particular, in respect of " family ", " personal cultivation ", " limited owner ", "intermediary ", " Inam land " and "land "?

3. Do you consider that "intermediary " as defined in clause 2 (15) brings within its scope all classes of intermediaries?

4. Do you agree with the definition of a " standard acre " in clause 2 (33) and the different classification of land to make up a standard acre as defined therein? If not, what is the classification which you desire to adopt in the definition of a standard acre?

5. What is the rational ground upon which the extent of land held by a person should be fixed?

6. Do you agree to the ceiling being fixed on the basis of extent of land held by any person? If not, what other method will you suggest?

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7. Do you agree to the ceiling being fixed at 30 standard acres per family consisting of not more than five members as provided in clause 4 with an addition of 5 standard acres for every member in excess of five, subject to a maximum of 60 standard acres for a family? Have you any comments to make on the proviso to clause 2 (9)?

8. Do you think that a ceiling should be fixed on the land held by an individual only and that the undivided family need not be a unit for the fixation of ceiling?

9. Do you agree that all the properties held by the members of the family should be taken into account for the purpose of fixing the ceiling area?

10. Have you any comments to make with reference to Explanation II to clause 4 (3)?

11. (*a*) Have you any comments to make about the property held by a widow in her own name and whether it should be included in the family property for the purpose of fixing the ceiling area or whether it should be dealt with separately?

(*b*) Do you consider that any special provision should be made with reference to the property held by a widow in an undivided Hindu family?

12. Have you any comments to make about "stridhana land" held by a woman? Do you consider that this should be included in the family property for fixing the ceiling area? If not, what do you think will be the best method to deal with the stridhana property with reference to the family to which she belongs?

13. What is your opinion about proviso to clause 5? Is it necessary? If so, whether the extent of half an acre and one acre is proper?

14. (*a*) Do you consider that the time-limit of 90 days allowed is sufficient for the purpose of filing a return containing the particulars mentioned in clause 6? Do you wish to add any other particulars to that list?

(*b*) Whom do you consider to be the proper person to file the return in the case of an undivided Hindu family? Do you consider that any distinction should be made between cases where the manager files the return in respect of the family owning the undivided Hindu family property and cases in which there are undivided Hindu family properties as well as self-acquired properties owned by some or all the members of the family?

15. Do you consider that the landowner should be given the absolute right to choose the lands to be held by him within the ceiling area, or do you consider that the authorized officer should have a voice in that matter with a view to secure easy and convenient enjoyment of the area that is declared as surplus?

16. (*a*) Do you consider that the time-limit of 60 days allowed in clause 8 (2) for preferring objections to the draft statement regarding surplus land is sufficient?

(*b*) Do you consider that the "authorized officer" should have a discretion to extend the time for filing objections, and if so, is the time-limit of 30 days sufficient?

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17. Have you any comments to make about the procedure laid down in the Bill that has to be followed by the authorized officer before declaring any land as surplus land under clause 8? If not, have you any suggestions to make for improving the same?

18. What are your views about the vesting of surplus land held by a limited owner? Do you think that it can vest in the remainder man immediately? Do you consider that the remainder man should not get the absolute interest in the surplus land held by a limited owner? If so, what is your alternative for the disposal of the surplus land and for the preservation of the compensation amount awarded for the surplus land during the life-time of the widow?

19. What are your views in respect of lands held by an usufructuary mortgagee in cases where such land is declared to be surplus land? What safeguards will you suggest to secure the mortgage money to the mortgagee? Do you think that the authorized officer will be competent to deal with questions that may arise on this matter? If not, who will be the proper person to deal with such questions?

20. (*a*) Do you agree that any land held by a tenant in excess of his ceiling area should revert to the land owner if he is otherwise competent to hold the land as within the ceiling area?

(*b*) Have you any comments to make about the apportionment of the compensation for the tenants interest that vests in such land owner under clause 11 (1)?

21. Do you consider that the time-limit of 60 days allowed to a person under clause 12 (4) for claiming interest in the surplus land notified for acquisition by the Government is sufficient?

22. What are your views about the composition and functions of the Land Board? Have you any suggestions to make on this matter?

23. Do you think that the Land Board should be given powers to permit registration of sale deeds after the commencement of the Act in genuine cases where lands have been already sold and sale deeds alone remain unregistered?

24. What according to you should be the principle of compensation payable for the surplus land acquired by the Government? Do you agree that the compensation payable for the surplus land acquired by the Government as calculated in the manner prescribed in Schedule III to the Bill is adequate?

25. Do you think that compensation should be on the basis of market value or on any other basis?

26. Do you agree to the payment of compensation on an uniform basis instead of on slab basis?

27. Do you think that the landowners themselves should be allowed a particular time to dispose of the surplus lands instead of the Government acquiring them?

28. Have you any suggestions to make about the procedure prescribed for the purpose of publishing the draft compensation assessment roll and the final compensation assessment roll? Do you wish any modifications to be made, and if so, how? What is the alternative method that can be adopted? Clear and concise views on this point will be appreciated.

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29. Do you think that the time-limit fixed in clause 26 (2) for preferring objections in regard to any entry in the draft assessment roll is sufficient?

30. Have you any comments to make about the provision in clause 27 regarding the manner and the method of payment of the compensation amount? If not, what is the alternative that you will suggest?

31. Do you agree that the authorized officer may settle the claim of a mortgagee or charge holder on a surplus land for the compensation amount payable in respect of that land with a right of appeal to the aggrieved party to the Land Tribunal? If not, have you any alternative suggestion to make on this subject?

32. (*a*) Do you agree that the compensation under clause 29 payable to tenants who are in possession of the surplus land after the land is declared as surplus, is adequate?

(*b*) Do you consider that the apportionment of the compensation as between the tenant and the intermediary secures their respective interests?

33. What are your suggestions for preventing alienations to defeat the purpose of the Act?

34. Have you any suggestions to make on the question of penalty provided in clause 31?

35. Do you agree to the provision in clause 32.

36. (*a*) Do you agree to the provision in clause 33 and, if so, whether the provision is sufficient?

(*b*) Do you agree that registration of documents in respect of transfer or partition should take effect only from the date of registration as provided in clause 33 (2)?

37. Do you agree that sub-clause (2) of clause 33 offends the provisions of the Registration Act?

38. (*a*) Have you any comments to make on the provisions in Chapter VI regarding the constitution and functions of the Sugar Factory Board?

(*b*) Have you any comments to make on the provisions relating to the Sugar Factory Tribunal?

39. (*a*) Do you agree that there should be ceiling in respect of land held by religious institutions and charitable trusts?

(*b*) Do you consider that the ceiling of 200 standard acres will be adequate?

(*c*) Should there be a ban on future acquisition by religious and charitable institutions? If so, what are your suggestions?

40. Have you any suggestions to make on the subject of apportionment mentioned in clause 44?

41. Do you agree to the tasdik allowance, payable to trusts for a public purpose of a religious or charitable nature, for the surplus lands acquired from them, being calculated as prescribed in Schedule V to the Bill?

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42. Do you agree to the provision in clause 45 (2) and (3) regarding the payment of tasdik allowance in cases where the surplus land of a trust for a public purpose of a religious or charitable nature is held by an individual on condition of rendering service to the trust?

43. What are your suggestions regarding inam lands?

44. Do you agree to the provisions in clauses 51 and 52?

45. Do you agree to the provisions for the determination of compensation for inam lands acquired by Government as contained in Schedule VI to the Bill?

46. (*a*) Do you consider that this Bill should be confined only to the fixation of a ceiling limit and that it should not contain any provision relating to the tenancy, etc.?

(*b*) Do you consider that there should be a separate Act to amend and consolidate the law relating to tenancy?

47. Do you think that it will be proper and just that the landowner should be free to enjoy the land retained by him after the fixation of ceiling according to his discretion either on personal cultivation or on tenancy?

48. (*a*) Do you agree that there should be some disqualification as prescribed in clause 57 before the landowner is allowed to resume land for personal cultivation? Do you consider that the limit of 5 standard acres as provided in this clause will be reasonable extent that a land owner can resume for personal cultivation?

(*b*) Do you suggest any alteration to the years 1956–57 and 1957–58 referred to in clause 57?

49. Do you agree that a tenant in possession of land not resumed by the landowner for personal cultivation and who is not subject to the disqualifications contained in clause 58 (1) should continue to remain in the land for his life-time?

50. Do you consider that any limitation should be imposed on a tenant or a lessee with reference to the land that he should be in possession for cultivation and, if so, what will be the reasonable limit?

51. If you agree for limiting the land that a tenant or a lessee can reasonably cultivate, what is your suggestion about the disposal of the surplus land found to be in his possession?

52. Do you think that the landowner should be allowed to resume the excess land or that it should be distributed to new tenants? Who should be the proper authority for choosing those new tenants?

53. Do you consider that a landowner who resumes five acres of land for personal cultivation should be allowed to take additional land on lease from other persons? If so, what according to you, will be a suitable limit for the land to be taken for cultivation on lease?

54. Do you agree to the provision in clause 59?

55. Do you agree to the provision in clause 61 for the restoration of possession to a tenant of a land from which he has been evicted in contravention of the provisions in clauses 57, 58 (1) and 59?

56. Have you any comments to make on the provisions regarding Kudiyiruppus contained in Chapter X?

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57. Have you any comments to make on the exemptions provided in clause 69?

58. Should Educational and Research Institutions and Institutions for Medical Relief also be brought within the Act?

59. Do you consider that any exemption should be given to the well-managed farms?

60. Do you consider that any land in any hill-area should be exempted from the operation of the Act under clause 69?

61. Do you consider that any land should be exclusively set apart for grazing purposes and, if so, do you agree to the provision in clause 70?

62. Have you any comments to make on clauses 73 to 78?

63. Do you agree to the penalty provisions in clauses 79 to 82?

64. Do you consider that the persons to whom the Government should show a preference when disposing of the surplus land should be indicated in the Bill itself and, if so, do you consider that the preferences indicated in clause 84 (2) (*a*) are sufficient? If not, who are the other categories of persons that should be indicated?

65. Do you consider that the manner and method of the disposal of the surplus land acquired by the Government should be specified in the Bill itself, or whether it is sufficient if rules are framed for that purpose under clause 84?

66. What are your comments with regard to the provisions in clause 85?

67. Do you agree to the Court-fees for suits, appeals, applicants, etc., fixed in clause 97?

68. Have you any suggestion to make regarding the hill-areas to be included in Schedule I?

69. Are you aware of any leasehold village, other than those mentioned in Schedule II, which should be included in that Schedule?

70. Do you agree to the constitution of various Boards and Tribunals under the Bill?

71. Do you consider that fixation of ceiling is necessary and beneficial to the increase of production and to the progress of cultivation or whether it is likely to increase further fragmentation of holdings in the agricultural sector?

72. Have you any further comments to make on the Bill?

APPENDIX II.

Dissenting Minutes.

(1)

The Bill as it stands cannot achieve the object, i.e., reducing the glaring inequalities in the ownership of agricultural land. Knowing that such a Bill is going to be introduced in the Assembly all the big land owners have already made binami transaction. Now in most of the cases many ownerships of the lands are shown in the records

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only but actually the lands are under the same owner as it was before. Even if this Bill come into force, surplus lands will not be available as expected by Government. So in order to achieve the object of this Bill and to encourage the policy of Socialist Pattern the following changes should be made in the Bill.

The Bill should be given effect to from 1952. Ceiling should be fixed in respect of the income from other industries also. Each individual in a family might be allowed to have three acres subject to a maximum of 24 acres for the family. Stridhana lands of women might be restricted to three acres. Ceiling should be fixed on the basis of income. The clause relating to prevention of resumption of land for personal cultivation by those who were paying profession-tax and sales-tax should be retained. In respect of those already having lands for personal cultivation, the extent of lands might be limited to 5 acres. Those absentee-landlords getting a monthly income of Rs. 300 and above need not be allowed to have any land. In the case of those getting less than Rs. 300 they could be allowed to own lands to the extent of the income from the land plus the income that they were getting from other occupations, not to exceed Rs. 300. In the matter of giving jobs, children of agriculturists, kaiyeru-varamdars and mattuvaramdars should be shown preference. The surplus lands should be cultivated through co-operative farms. Compensation should be paid on the basis of the Agricultural Income tax Returns. The land belonging to educational institutions should be taken over by the Government. No lands should be exempted from the Bill. The Fair Rent Act and the Tenants' Protection Act are not properly implemented. The Government should prepare a list of lands with the names of agriculturists who are cultivating them. The Kaiyeruvaramdars Protection Act should be extended to North Arcot district also.

In the proposed Land Board and Land Tribunal, only those officers who did not own any land should be members. If those officers who owned lands were appointed as members, they would show some partiality towards landed persons.

Though the Constitution do not allow to fix ceiling for the temples and mutts lands, the Central Government may be requested to amend the Constitution so as to fix ceiling to these lands also.

In respect of "kudiyiruppu", separate Legislation should be brought along with this Bill as promised to the Committee.

KALAMBUR, S. M. ANNAMALAI,
14*th August* 1961. *Member, Legislative Assembly.*

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(2)

நமது நாட்டின் நிலவுடமை முறை அசமத்துவமானதாகவும், அநீதியானதாகவும் உள்ளது. விவசாயிகள் எனப்படுவோரிடையே இன்று பல்வேறு பிரிவுகள் நிலவுகின்றன. குத்தகைவாரச் சாகுபடியாளர், விவசாயக் கூலிகள் என்ற பேதத்துடனின்றி நிலவுடைமையிலும் பலவித பாகுபாடுகள் உள்ளன. மிகச் சிலர் கையில் மட்டும்—சாகுபடியே செய்யாதாரிடையே—பல்லாயிரக் கணக்கான ஏக்கர்கள் நிலமும் அதே நேரத்தில் நிலத்தில் இறங்கிப் பாடுபடும் பல்லாயிரக்கணக்கானோர் நிலமற்றவர்களாகவும், போதிய வருவாய் அற்ற நிலமுடையவர்களாகவும் இருக்கும் நிலை. இந்த சமுதாயத்தில் அந்தஸ்தற்றவர்களாகவும், அடிமைகளாகவுமான ஒரு சமூகத்தையேகூட ஏற்படுத்தியுள்ளது. இதன் காரணமாக உற்பத்தியில் உற்சாகங் குன்றி உணவு தானியங்

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களின் உற்பத்தி குறைந்து, கிராமாந்திரப் பொருளாதார வளர்ச்சி பாதிக்கப்படுவதோடு நாட்டின் தொழில் முன்னேற்றம், வாங்கும் சக்தி வளரப் பெற்றிராத உள்நாட்டு சந்தையால் பெரிதும் தடைபடுகிறது.

எனவே, நாட்டின் முன்னேற்றங் கருதியும், சமுதாயத்தின் பெரும் பகுதியினரான மக்களுக்கு நியாயம் வழங்க வேண்டியும் நிலவுடைமை முறையைத் திருத்தியமைக்க வேண்டியுள்ளது. நாம் சோஷலிசத்தை இன்று இலட்சியமாகக் கொண்டுள்ளோம். நிலச்சீர்திருத்தம், தொழில் முன்னேற்றம், சோஷலிசம், இவையனைத்துமே இன்று எல்லோராலும் ஏற்றுக் கொள்ளப் படுபவையாகி விட்டன.

இந்த மசோதாவின் நோக்கம் (Preamble) முன்னுரையில் கூறப் பட்டுள்ளது. முன்னுரையில் கூறப்பட்டுள்ள நோக்கத்தை மசோதாவின் உள்ளே நாம் எந்த அளவுக்கு நிறைவேற்ற முயற்சித்துள்ளோம் என்பதைப் பார்க்கும்போது வருந்த வேண்டியுள்ளது.

நில உச்ச வரம்பு.—தங்களுடைய சொந்த உழைப்பினல் ஐந்து பேரடங்கிய ஒரு குடும்பம் 5 ஏக்கர் நிலமே சாகுபடி செய்வது சாத்தியம் என்பது எல்லோராலும் ஏற்றுக்கொள்ளப்படுகிறது. எனவே, 5 ஏக்கர் நிலத்தையே நாம் ஒரு economic holding என்று கொள்ளலாம். மேலும், திட்டக் கமிஷன் ஐந்து பேரடங்கிய ஒரு குடும்பத்திற்கு ஆண்டொன்றுக்கு ரூ. 3,600 வருவாய் போதும் என்று ஆலோசனை கூறுகிறது. 30 ஸ்டாண்டர்ட் ஏக்கர் என்று நாம் உச்ச வரம்பு நிர்ணயிப்பது வருவாய் அமிதமாகவும் economic holding- ஐப் பலமடங்கு கூடுதலாகவும் ஆக்குகிறது. இது எக்காரணத் திற்காக நில உச்ச வரம்பு நிர்ணயிக்கப்படுகிறதோ அந்தக் காரணத்தை, நோக்கத்தை நிறைவேற்ற உதவப் போவதில்லை. இதன் மூலம் நாம் எதிர்பார்க்குமளவிற்கு நிலமற்றவர்க்கு நிலமளிக்க உபரி நிலம் கிடைக்காது. மீண்டும் விவசாயத்தில் ஏற்ற தாழ்வான நிலையே தொடர்ந்து நிலவப் போகிறது. பலர் 30 ஸ்டாண்டர்ட் ஏக்கர் நிலங்களை ஏற்கனவே நிலச் சொந்தக்காரர்கள் பாகப்பிரிவினைகள் மூலமாகவும் 'மினுமி' பத்திரங்கள் மூலமாகவும் செய்து கொண்டுள்ளனர்.

எனவே 30 ஸ்டாண்டர்ட் ஏக்கர் என்று நிர்ணயிப்பது அதிகமாகும். உயர்ந்த பட்சம் மூன்று மடங்கு economic holdings ஒரு குடும்பம் வைத்துக் கொள்ளலாம் என்பதே தற்போதைய சூழ்நிலையில் நியாயமாகும். அதாவது 15 ஸ்டாண்டர்ட் என்று உச்ச வரம்பு கட்டுவதே நிலப்புனர் விநியோகம் பயன்தரத்தக்கதாகும்படியான வழியாகும்.

விலக்குகள்.—(1) மத-தர்ம ஸ்தாபனங்கட்கும், இதர பொது நலனுக்கான ஸ்தாபனங்கட்கும் மசோதா விலக்களிக்கிறது. இதன் மூலம் பல பெரு நிலச்சொந்தக்காரர்களும் தங்களின் உபரி நிலங்களைக் காப்பாற்றிக் கொள்ள வும் பரம்பரையாக இவற்றின் மறைவில் இருந்து வரும் ஒரு கூட்டம் தொடர்ந்து சுரண்டுவதற்கும் வகையேற்படுகிறது. இந்த நிலங்களில் பாடு பட்டு வரும் பல்லாயிரக்கணக்கான விவசாயிகட்கு எந்தக் காலத்திலும் நிலங் கிடைப்பதற்கான வழியே இல்லாது போய் விடுகிறது. ஏன் இவற்றிற்கு விலக்களிக்க வேண்டுமென்பதும், இப்படியே விலக்களித்து விட்டால் உபரி நிலம் எங்கே கிடைக்கப்போகிறது என்பதும் புரியவில்லை. மத ஸ்தாபனங் கட்கு சொந்தமாயிருக்கும் நிலங்களை சர்க்காரே எடுத்துக்கொண்டு நிலங் களின் நிகர வருவாயைக் கணக்கிட்டு ஆண்டு தோறும் Tasdik Allowance ஆகக் கொடுத்து விடலாம். இப்படிச் செய்வதில் சட்டம் குறுக்கிடுமானல் அச் சட்டத்தைத் திருத்த நாம் முயற்சிக்க வேண்டும். அதற்காக சீர்திருத்தத்தைக் குறைத்துக் கொள்ளக் கூடாது.

(2) சர்க்கரை ஆலைக்குச் சொந்தமான கரும்புத் தோட்டங்கள், மலைத் தோட்டங்கள், பழத்தோட்டங்கள், பாக்குத் தோட்டங்கள், மேய்ச்சல் வெளிகள் ஆகியவற்றின் பேராலும் விலக்களிக்கப்படுகிறது.

நாம் தஸ்தாவேஜ் பூர்வமாக நிலவுடமைக்கு வரம்பு நிர்ணயிக்கிறோம் என்பது தவிர, மசோதாவின் ஆரம்பத்தில் சொல்லப்பட்டிருக்கும் நோக்கத்தை மிகக் குறைந்த அளவுகூட நிறைவேற்ற முயற்சித்துள்ளோம் என்று இதனல் ஏற்றுக் கொள்ளுவதற்கில்லை.

18th August 1961]

எனவே, இத்தகைய ஸ்தாபனங்கட்கும், தோட்டங்கட்கும் விலக்களிக்கக் கூடாது என்று வற்புறுத்த விரும்புகிறேன்.

நஷ்ட ஈடு.—சர்க்கார் எடுத்துக் கொள்ளும் உபரி நிலங்கட்கு நஷ்ட ஈடு ஆண்டொன்றுக்குக் கிடைக்கும் நிகர வருவாய் அடிப்படையில் பல மடங்குகளாக நிர்ணயிக்கப்படுகிறது. இவ்விதம் வருவாய் நிர்ணயிப்பதில் குளறுபடிகள்தான் ஏற்படும். சில இடங்களில் நியாயமான நஷ்ட ஈடு கிடைக்காமலும் மற்றும் சில இடங்களில் கூடுதலான தொகை கிடைப்பதிலும் இது கொண்டு போய் விடும்.

எனவே, இந்த நஷ்ட ஈடு நிலத் தீர்வையை அடிப்படையைக் கொண்டதாக இருக்க வேண்டுமென்று கோருகிறேன்.

நஷ்ட ஈடு அளிக்கும் முறை.—அத்துடன் நஷ்ட ஈடு அளிக்கும் முறையிலும் மாறுதல் இருக்கவேண்டும். தொழில் வளர்ச்சியில் ஈடுபடுவோருக்கு உற்சாகமளிக்கும் முறையில் தொழிலில் முதலீடு செய்ய முன்வரும் நஷ்ட ஈடுதாரருக்கு முழுத் தொகையையும் அளித்துவிட வேண்டும்.

சொந்தச் சாகுபடிக்கு எடுத்துக் கொள்ளுதல்.—எந்த ஒரு நிலச் சொந்தக்காரரும் மசோதாவின்படி 5 ஏக்கர் சொந்த சாகுபடிக்கு குத்தகை-வாரதாரரிடமிருந்து மீண்டும் எடுத்துக் கொள்ளலாமென்று அனுமதிப்பதானது ஆயிரக்கணக்கான விவசாயிகளை நிலத்திலிருந்து வெளியேற்றுவதிலும், புதிய தகராறுகளை சிருஷ்டிப்பதிலும் கொண்டு போய் விடும். இந்த மாதிரி ஒரு பெரும் பிரச்னை ஏற்படாது தடுக்க, அநாவசியமான கிளர்ச்சிகளும் சட்டத் தகராறுகளும் புதிதாக ஏற்படாமல் தடுக்க நிலத்தை எடுத்துக் கொள்ளும் போது அந்த நிலச் சொந்தக்காரர்கள் மூன்றிலொரு பகுதியையாவது குடியானவர்கள் வசமிருக்கும்படியாகச் செய்வது நல்லது.

அமுலாகும் தேதி.—நிலச்சீர்திருத்தம் பற்றி 1952-ல் நடைபெற்ற முதல் பொதுத் தேர்தல் காலத்திலேயே பேசப்பட்டது. ஒவ்வொரு சாராரும் நிலச் சீர்திருத்த சட்டம் கொண்டு வரப்படும் என்று பேசினர். அன்றிலிருந்து நிலச்சொந்தக்காரர்கள் விழிப்புடனிருந்து சட்டம் வரப்போவதை அநுசரித்துப் பலவித தில்லுமுல்லுகள் செய்யத் தலைப்பட்டார்கள். பலவித 'பினமி' சாசனப் பத்திரங்கள் இன்னும் பல தந்திரங்கள் செய்து தங்களது உபரி நிலங்களை பாதுகாத்துக் கொள்ளும் முயற்சியில் இறங்கி விட்டார்கள். இந்த கடந்துபோன ஆண்டுகளில் ஏற்பட்ட நில வெளியேற்றங்களின் தொகையைக் கணக்கிட்டாலே ஒருவாறு புரிந்து கொள்ள முடியும்.

எனவே, இம்மசோதாவை 1952-ம் ஆண்டிலிருந்து அமுலுக்கு வரும்படி செய்ய வேண்டும்.

இம்மசோதாவில் குடியிருப்பு மனைக்கட்டுப் பிரச்னையும், சிதறுண்ட நிலங்களை ஒன்று சேர்த்தல் பற்றியும் எதுவுமே காணப்படவில்லை. இன்று விவசாயிகளை எதிர் நோக்கியுள்ள பெரும் பிரச்னை குடியிருப்பு மனைக்கட்டாகும். பெரு நிலச்சுவான்கள் இம்மாதிரி இடங்களில் ஒன்று வெளியேற்றப்படுகிறார்கள் அல்லது அவ்விடங்களை விற்பனை செய்திருக்கிறார்கள். எனவே, அப்படிப்பட்ட விவசாயிகட்கு குடி யிருக்க மனைக்கட்டு ஆர்ஜிதம் செய்து தர வேண்டியது சர்க்கார் பொறுப்பாகும். பரம்பரை பரம்பரையாக குடியிருந்துவரும் இடத்தை விட்டுப் போவது என்பது விவசாயிகட்கு தாங்கொணாததாகும்.

அதேபோல் பலதிக்குகளிலும் சிறிது சிறிதாக சிதறுண்டு கிடக்கும் நிலங்களில் விவசாயிகளால் தீவிர முறையில் சாகுபடி செய்வது சிரமமாயுள்ளது. எனவே, அவர்களுக்கு சிதறுண்டு கிடக்கும் நிலங்கட்கு ஈடாக ஓரிடத்தில் அதே அளவு நிலத்தை ஒன்று சேர்த்துக் கொடுக்கும் பொறுப்பை சர்க்கார் எடுத்துக் கொள்ளவேண்டுமென்றும் கேட்டுக் கொள்ளுகிறேன்.

A. R. MARIMUTHU,
Member, Legislative Assembly.

[18th August 1961

(8)

I consider that the very principle of imposing a ceiling on land holdings is wrong and unfair. If we do not resort to quibbling, it has to be conceded that a ceiling on land holdings is virtually a ceiling on income. No doubt a ceiling on land holding may not be absolutely fixed in terms of Rupees and naye Paise and the actual income from the 30 standard acres of land may vary within certain limit depending upon the quality of the land, the nature of the crop and industry of the agriculturists. But this does not mean that income of such a person is not limited by the statute. It is wrong in principle to impose such a ceiling on income in any one sector. It is not fair to the person who devotes his whole attention and life to the task of producing food for the country. None of the reasons given in the preamble is convincing. Article 39 (*b*) and (*c*) of the Constitution of India quoted in the preamble does not apply to the agricultural sector in particular. As regards the statement that it is necessary to acquire the agricultural land in excess of the ceiling area and distribute such lands to the landless and other persons among the rural population, there is absolutely no evidence to show that such excess land will satisfy even a very small fraction of the landless and other persons among the rural population and the task undertaken is therefore bound to produce more dissatisfaction. As regards the statement that the proposed ceiling will increase agricultural production, there is absolutely no evidence to show that this object will be achieved. Considering the fact that over 90 per cent of the land is now held by persons who hold less than the area of the proposed ceiling, if production can be increased by making the holdings small, it would have already been increased, as the small percentage of the area held by those who have more than the proposed ceiling cannot affect the total production materially. There may be a few cases of owners of big holdings not producing the maximum possible foodgrains from their lands, but there are a much larger number of tenants as well as owners of small holdings producing much less than the neighbouring owner of a big holding. In some cases it may be due to want of adequate resources but what this legislation proposes to do is to place more lands in charge of persons who do not have and who are not likely to have adequate resources. Production is therefore, likely to suffer and not improve. Apart from all these considerations, the one great disservice which the proposed legislation will render is to take away intelligent and enterprising farmers from the villages and induce them to migrate to the cities, where their earnings will not be subject to any ceiling. This will result in taking away from the villages those ryots who try out new methods and set the pace for other ryots to follow. The Government may try to remedy this by increasing the strength of the officers of the Agricultural Department, but anyone who has had intimate knowledge of the financial result of the working of Government Seed Farms will know what those who have no personal interest in cultivation are capable of. It is a great pity that while advanced countries think only in terms of the minimum area required for farming, the ruling party which is also aiming to make the country advanced should think in terms of a ceiling on land-holdings. While I object to the entire legislation on the above grounds, I also offer the following remarks on some of the provisions of the proposed legislation as I am certain that my general remarks are not likely to be given any consideration by the Government, which depends more on its steam-roller majority than on reason for carrying through their pet ideas.

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(1) *Ceiling.*—While the imposition of a ceiling on land-holdings results in invidious and unfair treatment to those engaged in the most important food producing sector, the method adopted will result in great disparity even amongst those who are affected by the ceiling. For example, a ryot who owns 900 acres of rain-fed dry land in Chingleput district worth about Rs. 2,70,000 yielding an annual net income of about Rs. 10,800 per annum, will be allowed to retain 90 acres with a net income of about Rs. 1,080 per annum. For the balance of 810 acres, he may get a compensation of Rs. 1,29,600 (12 times the net annual income) against the market value of Rs. 2,43,000 (at Rs. 300 per acre). Another man who owns 90 acres dry-land with sub-soil water fit for sugarcane cultivation in Villupuram taluk, worth Rs. 2,70,000 (at the present market value of Rs. 3,000 per acre) can continue to hold the entire 90 acres and enjoy a substantially higher income per annum. In any case, he need not part with his property for about 50 per cent of the market value of his property like the other man who owns a large area of less valuable land. Thirty acres of the best irrigated wet land is worth about Rs. 1,50,000 and it will be more rational to fix the ceiling as land worth Rs. 1,50,000 at the present market rate.

(2) (i) The definition of cultivating tenant in clause 3 (10) includes his heirs. It is not clear whether the heirs have also to be cultivating tenants. The exclusion of intermediaries in the last portion of the clause does not appear to affect the heirs of a cultivating tenant.

If a cultivating tenant of 2 acres has ten sons, has each son a right for the partition of the 2 acres at 20 cents each and is the owner of the land expected to deal with the ten sons?

(ii) Clause 3 (42) defines "standard acre". Only lands assessed to land revenue of Rs. 15 and above should be taken as the basis standard acre should mean one acre of this land and the scale fixed in other items in the sub-clause should be increased proportionately.

(3) *Compensation.*—The compensation has been fixed as 9 to 12 times the net income. If the surplus land is required for a public purpose as stated in the Act, there can be no justification for paying less than the market value. To pay less than the market value amounts to expropriation of the difference in value and there is no reason why one type of property owner should be selected for an expropriatory measure. The compensation can be left to be fixed under the normal law on the subject, viz., the Land Acquisition Act.

(4) Clause 10 (3) requires the authorized officer to allow the owner that part of his land which is capable of easy and convenient enjoyment, if the owner had failed to spepcify what land he proposes to retain. In the case, however of the owner who specifies what land he proposes to retain under the last proviso to clause 10 (4), the convenience of the owner can be ignored and the test of easy and convenient enjoyment is to be applied to the surplus land. For example, a piece of land near the residential part of the village can be declared as surplus land.

(5) Under clause 18 (3), all trees, buildings and machinery in the land which have been declared to be surplus vest in the Government from the date of publication of the notification under clause 18 (1). In view of clause 10 (4), the authorized officer can declare

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the land with trees, a pumphouse and a pumpset to be surplus as it is capable of easy and convenient enjoyment though the owner wanted to retain the land for himself. Again, there may be a crop on the land and he may be using a diesel engine and pumpset for irrigating it on the date of declaring the land as surplus. In such cases, if the owner takes away the pumpset and even cuts and removes a tree required for personal use, is it a crime and should he be fined up to Rs. 1,000 and sent to prison for one year? Again, is the owner expected to maintain some watchmen on shift duty for the safety of the trees and the pumpset till the authorized officer chooses to take possession of the land at any time after the publication of the notification under section 18 (4) ?

(6) Clause 20 provides that if land is transferred to a person which has the result of increasing his holding to more than the ceiling, he should meet all the commitments in respect of the transaction but the land will become the property of the Government. There is no justification for this. The Government can acquire the land as in the case of other surplus land and he can be fined subject to a prescribed limit. This clause can cause undue hardship in some cases. For example, a person might have advanced Rs. 10,000 on the mortgage of 10 acres of land and if he finds no other means of recovering the money, the lands may be brought to auction through a civil suit. The lands may be worth Rs. 12,000 but due to a combination of bidders, the highest bid may not exceed Rs. 5,000. In such a case, the normal procedure is for the mortgage to bid in the auction with Court's permission. If he does so with the intention of selling the land in excess of the ceiling, he will have to pay the money but the land will vest in the Government under clause 20.

(7) *Resumption of land for personal cultivation.*—A land owner on whose lands ceiling is imposed should be permitted to resume for personal cultivation at least half of the ceiling area if not the whole. After having restricted the extent of his ownership it is not justifiable to deny him the exercise of full right on his land up to ceiling limit.

(8) (i) *Exemptions.*—Efficiently managed farms should be exempted. This principle has been accepted by the Planning Commission.

(ii) Clause 70 (viii) of the Bill exempts land used exclusively for growing fuel trees on the date of commencement of the Act, viz., 6th April 1960. Some lands are ordinarily used only for growing fuel trees and there is no reason why any such land should not be exempted merely because there were no such trees on the land on 6th April 1960. For example, casuarina might have been cut a few days earlier and it will naturally take some time before it is replanted. It is not fair to deny exemption in such cases. The exemption may be made to cover all land normally used for growing fuel trees.

(9) Provision should be made for the consolidation of holdings.

(10) The Act should take effect only from the date of passing of the Act as is usually done. There is no reason for giving retrospective effect to the Act from 6th April 1960.

(11) Compensation should be paid in cash in a lump immediately after the lands are taken over.

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(12) The above are only some examples and I have given them only to show that this legislation will solve practically no problems but will create many problems. I strongly object to the proposed legislation.

MADRAS,
16th August 1961.

V. K. RAMASWAMY MUDALIYAR,
Member, Legislative Assembly.

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(4)

The preamble claims that this Bill seeks to reduce the disparity in the ownership of agricultural land leading to the concentration of such land in the hands of a few persons.

It is also claimed that this is a measure directed against concentration of wealth and means of production to the common detriment of the community.

No doubt, the preamble proclaims high ideals, quoting some of the provisions of the Constitution relating to the Directive Principles of the State Policy.

The question of land-reform is not an ideological one. It is a national question, concerning the problem of feeding the nation and raising the stature of the common man.

That is why the slogan of "Land to the Tiller", was raised on the banner of our national movement from the early years. The realization of the objectioves for which our national movement had stood would be far from achievement, so long as the hold of the fuedal land-owners on the lands, is not eliminated and the millions of toiling peasants liberated from their clutches. Such a reform is indispensable for the very re-generation of our national economy and for the democratic re-construction of our Society.

Even for the unfettered improvement of agriculture such a reform is essential. That is why the Planning Commission has laid emphasis on the re-organization of agrarian structure and accepted the same as part of the Plan.

Although the two Plans have laid great emphasis on the need for increasing agricultural production, it has not been possible to achieve the targets in full in that sphere.

The total outlay on agriculture, community development and irrigation, amounted to Rs. 1,551 crores during the period of ten years of the First and Second Five-Year Plans.

The net area irrigated is estimated to have increased from 51·5 million acres in 1950–51 to about 70 million acres in 1960-61.

The mechanical and improved methods of cultivation have expanded considerably.

About 4,000 State Seed Farms have been established all over the country.

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The use of chemical fertilisers and other local manure has increased to phenominal extent.

In spite of these remarkable advances, the production targets have not been fully realised, according to official statement itself. The progress in per acre average also is very slow.

These facts show that the progress of our agriculture has not been far enough and it threatens to reach a point of stagnation.

One of the chief reason for this slow progress, is the halting and dilatory manner in which the directives of the Planning Commission, on the question of land reforms, have been carried out.

After all, the measures suggested by the Planning Commission are by no means revolutionary. They fall far short of making the tiller of the soil, the owner.

The suggestions of Planning Commission consist only of measures to abolish intermediaries (such as zamindars, jahirdars, inamdars) protection and improvement of tenancy rights and the imposition of Ceiling of land-holdings.

These measures have been on the anvil in our State since 1955, when the Cultivating Tenants Protection Act entered the Statute book, seeking to protect the tenants against eviction.

Next is the Fixation of Fair Rent Act, seeking to fix the tenants' share at 60 per cent of the produce.

Another measure was the Tiruchi Kaieru and Mattuvaram Act, seeking to provide some limited rights to Kaieru and Mattuvaram tenants in a few villages in Tiruchi district.

These legislations contained very vital loop-holes. The land-owners took advantage of the legal loop-holes, to drag the tenants to courts, and tire them out by endless litigations. Where the tenants are organised, the eviction is taking place through law courts and the police. Where the peasants are not organised, the landlords themselves are evicting directly, with the help of rowdy elements.

No wonder evictions have taken place on an unprecedented scale in this period, despite these legislations on the Statute Book.

A large tract of inam areas have been left out of the purview of the 1948 Estates Abolition Act. The loop-holes in that Act also were such, that a large number of ryots lost their lands. A large number of inam ryots are on the verge of loosing the lands which they have been cultivating for generations.

On the crest of all these has come this so-called Land Ceiling Bill. If this Bill is passed, as recommended by the majority of the Select Committee, it would be a hoax on the Planning Commission, and would throw overboard the promises made to the people. I give below the reasons:—

(1) *Ceiling area.*—(*a*) Clause 5 seeks to fix the Ceiling area at 30 standard acres. The provisions of this clause are so framed that every individual member of a Hindu family including minor children would be able to own 30 standard acres per head provided the partition deed has been drafted on stamped papers before 6th April 1960.

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The ceiling area should be clearly fixed as applicable to a family of not more than five persons. Each person in a family should not be entitled to claim separately up to the ceiling area.

(*b*) Further the ceiling area fixed is very liberal and should be reduced to 15 standard acres for a family of not more than five persons. For every member of the family above five persons, a further 2 standard acres per head may be allowed, subject to a overall maximum of 25 standard acres for a family and not more than that for any family.

(*c*) The family should be defined so as to include only the husband, wife, minor children and unmarried adult children, thereby providing for recognising only genuine partitions and for rejecting partitions which have been made for the purpose of evading the Land Ceiling Bill.

(*d*) The way in which the family is defined, would give rise to anamolous differences between those covered by Hindu Law and non-Hindu families. Whereas every member of a Hindu family irrespective of age would be entitled to own the full extent of the ceiling area, the non-Hindu families could not have this advantage.

This anomoly is sought to be mitigated by providing for separate property by an individual member up to 10 acres in addition to the family ceiling, *vide* sub-section (4) of section 5. This clause also gives protection to stridhana properties of women members of a family. This provision for separate property although found necessary to remove the anomaly in respect of non-Hindu families, but in effect, would only help Hindu families to raise the ceiling area.

So the ceiling area of 30 standard acres would only remain a myth in so far as those covered by Hindu Law. In the case of non-Hindu families the ceiling would be 60 standard acres.

Clause 5 of the Bill and the definition of 'family' in (14) of clause 2, are so ingeniously framed, that no land-owner whether Hindu or non-Hindu would be affected. That Act would only remain paper tiger, when it relates to land-owners; but more ferocious than real tiger when it applies to cultivating tenants.

(2) *Definition of standard acre.*—The definition of the standard acre has been further liberalised by the Select Committee. The ceiling area would range from 30 to 120 acres, based on the assessed land revenue, as recommended by the Committee. The wet lands assessed to land revenue at the rate of Rs. 10 and above per acre is treated as a standard acre. There should be a scale reducing the extent for lands assessed to land revenue over Rs. 15 per acre, so as to avoid anomaly. Subject to this change, the definitions contained in the original bill should be retained, as the changes recommended by the Committee would further reduce the possibility of getting any surplus.

(3) *Date of commencement of the Act.*—This is defined as 6th April 1960, viz., the date of first publishing the bill in the *Fort St. George Gazette*. The date of commencement is very crucial. The intention of the Government to bring in legislation for fixing the ceiling on land-holdings, was made public as early as 1955. Since then the land-owners, had started vigorously to partition the lands and to make such other benami transfers and alienations, anticipating the ceiling bill. As was admitted by some of the witnesses

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from Kumbakonam representing land-lords themselves, rather challengingly, the land-owners have made partitions and other transfers only to defeat the purpose of this Bill. For this they have been given five years notice. Who is the landlord who would have failed to avail of this time for taking measures to evade the Act. The test for the sincerity of pushing through this reform, would lie in this crucial definition.

But the Select Committee has decided to liberalise this provision, by recognizing even the partition deeds registered after 6th April 1960, provided they had been drafted on the stamped papers prior to 6th April 1960.

This would only mean that all benami transfers and alienations would get legal status. This is certainly not the intention of the Government of India. I am not against genuine partitions that take place in the usual course. I only want that benami transfers and transactions, entered into by the landlords since 1955 should be subject to scrutiny. Therefore it is essential to give effect to the Act from the date of proclaiming the intention of the Government in 1955, for the purpose of bringing into the purview of this Act all benami transfers, alienations and such other transactions.

So definition clause 2 (11) should be suitably amended so as to bring the Act into effect from 1955.

(4) *Exemption.*—Sections 70 to 72 deal with exemptions. A series of 13 categories have been listed for exemption from the whole of this Act, including Trusts of all kinds, lands used for topes and orchards, lands used for growing fuel trees, lands used for diary farming, lands held by sugarcane factories, grazing lands, etc. Such exemptions would only defeat the purpose of this Act and so should not be provided for in this Bill.

Regarding lands held by religious and charitable endowments, it has been promised, separate bill would be brought in, with a view to confer permanent occupancy rights for the tenants. I would only urge that this legislation should be expedited and I reserve my further comments on this proposal.

(5) *Inam lands.*—A large number of inam ryots are threatened with eviction. Suitable legislation is urgent and imperative to abolish all inams (except service inams) and vest the lands with the ryots, Clauses 56 to 58 would only deprive the inam ryots of their lands, as it is, and would give rise to serious problems.

(6) *Kudiyiruppu.*—In the original Bill as introduced in the Assembly, there was a separate chapter, seeking to confer a sort of protection to the peasants and pannayals, against eviction from house-sites. This chapter was deleted, stating that a separate Ordinance if necessary would be issued to give such protection and that a separate legislation would be brought in. A large number of tenants and agricultural labourers, have put up their huts and have been residing on lands to which they have no title. This problem is very acute both in the delta area and in the un-settled estates and inam areas. It is but just that kudiyiruppus should be protected. The Government, if necessary should acquire such lands and assign them to the peasants. These peasants are mostly Harijans and people belonging to most Backward Communities. I therefore urge that a Bill as promised should be introduced without any further delay, to prohibit eviction from house-sites.

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(7) *Tenancy—Chapter VIII.*—This chapter is so conceived that it would abolish the class called "tenants" not by conferring ownership of land on them, but by depriving them of the lands. The definition of 'personal cultivation' is so liberally worded, that a very large number of owners, would resume lands from the tenants for so-called 'personal cultivation'. In the Bill as introduced originally, there was provision to give protection for the tenants under big land-owners, at least for the lifetime of the tenants concerned. Even this is taken away.

In defining 'personal cultivation' the Planning Commission has emphasised, that the element of personal labour contributed must be taken into account. The term 'personal cultivation' has been defined in such a way that a person residing in Madras City could be deemed to cultivate personally, his lands in Tirunelveli. This is an open disregard of the principles laid down by the Planning Commission.

If Chapter VIII is passed as recommended by the Committee, it would throw out large number of tenants and reduce them to the level of landless labourers.

No one would dispute the need for protecting the interests of small land-owners.

This Act would enable all land-owners indiscriminately to drive out the tenants.

The question of conferring the right of ownership on the tenants, as suggested by the Planning Commission, is not even thought of. Even the disposal of surplus lands, if any, is left vague.

(8) *Conclusion.*—Unless the Bill is drastically re-cast, to incorporate the amendments suggested by me, it will not be possible to bring the Bill into conformity with the objectives laid down by the Planning Commission. This is what the report of the Third Five-Year Plan as approved by the Parliament states:—

"Land reform programmes, which were given a place of special significance both in the First and in the Second Plan, have two specific objects. The first is to remove such impediments to increase in agricultural production as arise from the agrarian structure inherited from the past. This should help to create conditions for evolving as speedily as possible an agricultural economy with high levels of efficiency and productivity. The second object, which is closely related to the first, *is to eliminate all elements of exploitation and social injustice within the agrarian system, to provide security for the tiller of soil and assure equality of status and opportunity to all sections of the rural population.*" (*Page* 220.) (Emphasis, mine—M.K.).

Fixation of ceiling to land-holdings, conferment of ownership of lands on the tenants, and the distribution of surplus lands to landless peasants, and displaced tenants, are essential ingredients for any programme of land reform.

Such a reorganization of agrarian structure alone could reduce the disparities, raise the status of tenants landless peasants, who constitute the overwhelming majority of the rural population. Such a reorganization is imperative not merely from the sectional interests of toiling peasants, but for the larger interests of the nation. Such a

reorganization alone could deal a blow to hoarding and soaring prices of essential articles of living. By raising the standard of living and purchasing power of the bulk of the rural population, such reforms would accelerate our industry, trade and commerce.

For these reasons, agrarian reforms are considered to be an essential national question, and not the demand of any particular sect or class.

If this Bill enters the Statute Book, as it is finalised by the Select Committee, it will not achieve any of the objects contained in the recommendations of the Planning Commission. On the contrary, it would work in the opposite direction. The result would be, undesirable for the development of our agriculture. The contradictions between the land owning section and the toiling peasants would get intensified. The land-owners and the landless people, would be ranged against each other, to the detriment of agriculture and rural development.

MADRAS, FORT ST. GEORGE, M. KALYANASUNDARAM,
15th August 1961. *Member, Legislative Assembly.*

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(5)

The Bill itself imposing a ceiling on the ownership of land is opposed to the fundamental rights of property guaranteed to the citizens under the Constitution and is thus invalid. Article 31 (2) clearly states that no property shall be compulsorily acquired or requisitioned save for a public purpose, and save by authority of a law which provides for compensation for the property so acquired. The preamble to the Bill is evidently put in for the purpose of satisfying the requirements of Article 31 (2), namely, 'a public purpose'. The object of the Bill is stated to be to remove the great disparity in the ownership of agricultural land and to distribute the surplus land so acquired to the landless and other persons among the rural population. A reference is made to Article 39 containing a direction as regards State Policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good. The directive principles of State policy enunciated in Part IV of the Constitution are not enforceable by the courts and the implementation of such directive principles can only be made without offending the fundamental rights guaranteed to the citizen in Part III of the Constitution. 'A Public purpose' mentioned in Article 31 (2) contemplates only a concrete and definite purpose and excludes a general objective or the implementation of any ideology, political or economic. The Madras High Court in its judgment in the case *M. B. Namazi* v. *Deputy Custodian of Evacuee Property* (A.I.R. 1951 Madras page 930) has laid down that mere State Policy would not amount to 'a public purpose'. The judgment therein relies on the previous judgment of the Bihar High Court in *Sir Kameswar Singh* v. *Government of Bihar* (29 Patna 790).

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Expropriation of property for the vague and indefinite purpose of benefiting some tenants or other landless persons cannot be called ' a public purpose ' within the meaning of Article 31 (2). The Bill is intended only to transfer property from one class of people to another class of people and cannot at all be called ' a public purpose '.

It is not correct to say, as the Preamble does, that there is great disparity in the ownership of agricultural land. The statistics furnished by the Government Department itself clearly proves that there is no such disparity. Hence there it no justification for the introduction of the Bill at all.

According to clause 5 the ceiling fixed is 30 standard acres. There has been no attempt made up till now to find out the extent of ' economic holding ' in our State and also the amount of income that will be derived from every acre of land and the amount that is necessary for the maintenance of an agricultural family. As an arbitrary estimate 30 standard acres have been fixed. This is wholly insufficient for a decent agricultural family.

The Bill also offends Article 14 of the Constitution as it selects only agricultural land for the imposition of ceiling while there is no imposition of any ceiling in respect of income of other classes of citizens, where there are more pronounced and glaring inequalities than in agricultural income.

The reading of the provisions of the whole Bill will show that the Bill, in effect, has proceeded on the view that all agricultural property vests in the State and the only question is how much agricultural land has to be allotted for an individual or family and how much compensation the State can afford to pay to the person who has been deprived of his property.

In order to fix the standard acre the assessment of the land has been taken to consideration but not the net income from the land. This is also not correct. In the definition of standard acre, section 2, clause (42), one acre assessed to land revenue at the rate of Rs. 10 and above has been taken as the measure. In respect of lands with less assessments the proportion has been calculated. On the other hand, it is just and proper to take one acre of wet land assessed to land revenue of Rs. 20 and above as the measure and to fix the proportion thus:—

1 acre of wet land of assessment Rs. 20 and above
or 1¼ acres of wet land of assessment Rs. 15 to Rs. 20
or 1½ acres of wet land of assessment Rs. 10 to Rs. 15
or 1¾ acres of wet land of assessment Rs. 5 to Rs. 10
or 2 acres of wet land of assessment below Rs. 5.

Especially in Thanjavur and Tiruchirappalli districts this will do justice to the persons hit by the Bill.

Article 31 of the Constitution also imposes a condition that the law enabling compulsory acquisition of property should also specify the principles on which the compensation should be given. Article 31 of the Constitution provides no doubt that the inadequacy of the compensation cannot be called in question in a court of law. But it stands to reason that the court can go into the question whether

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the principles of compensation are fair or just. If private property is acquired for 'a public purpose' the Land Acquisition Act which has been in the Statute Book for nearly a century now has clearly provided that the market value of the land on the date of the acquisition will be the proper compensation. But this Bill departs from that principle and provides a different principle of compensation in clause 50 read with section 3, namely, a multiple of the net annual income from the land. Here also the multiple varies according to the income and the higher the income the multiple is less. Both these principles of compensation are grossly unfair and unjust. The greater the income the greater should be the compensation to be given to the person who is deprived of his property. Further, no difference is made as regards the calculation of the net income from lands enjoyed by personal cultivation and the lands given to the tenants for cultivation. The note circulated by the Government of India to our Government contains the remarks of the Government of India and it is clearly stated there that the "rates of compensation payable for the surplus lands which are under personal cultivation should be higher than the rates of compensation payable to the lands under cultivating tenants". But the Bill however has not accepted that principle. It should be accepted on all hands that the market value, especially, in the case of agricultural lands will be the most proper and adequate compensation for the person who will be deprived of his property which in many cases he would have been enjoying for a number of years. The market value of agricultural land is easily ascertainable and is not usually fluctuating and is generally based on sound economic consideration only, whereas the fair rent is only a rough estimate and the multiple of the fair rent also will be an inadequate compensation. Further in the Land Acquisition Act a solatium is also provided for the person who is deprived of his property. There is always a strong sentiment associated with the ownership of ancestral agricultural property in our country. The solatium in the Land Acquisition Act was until recently 15 per cent of the market value. Even the compensation, as one would expect, is not to be paid in cash immediately but sometime later either in cash or bond in the manner that may be prescribed.

One would have expected that the Bill imposing a ceiling and depriving a person of his property over and above the ceiling would atleast do him the justice of allowing him to be the absolute owner of the property within the ceiling limit. But the Bill has not done even that. All the fetters imposed by the tenancy laws have been put on him and the niggardly provision as regards the resumption of land by the owner for personal cultivation, up to 3 acres has been made as a matter of commiseration.

It is generally accepted that agriculture needs capital and skill for its efficient operation. For machanisation of agriculture, there should be a large extent of holding. Instead, the Bill will accelerate the fragmentation of holdings and agricultural property would be further subdivided on account of the laws of inheritance and succession. Mere distribution of land to the landless will not help agriculture, production at all unless sufficient capital is provided to the agriculturist to whom the land is given. On the other hand, what we find is that in district like Coimbatore, most of the well-to-do farmers are also industrialists. They not only invest their saving from industries in agriculture, but also apply the technique of industry in their farms which are run on commercial lines (vide statement made

by Mr. M. S. Randhawa, Vice-President, Council of Agricultural and Research and Additional Secretary to the Government of India). All this is due to the advantage of capitalists being also farmers. I am sure this Bill will make it impossible for well-to-do people to invest money in agriculture.

The sponsors of the Bill themselves feel that the imposition of ceiling is harmful in the case of sugarcane cultivation to supply the sugar industry and will not be necessary in the case of an Agricultural Company.

It has been provided that the provisions of the Bill come into effect from 6th April 1960 and that date is the date of the commencement of the Act. Ordinarily the principles of all legislation affecting rights to property is it should not have any retrospective effect, as otherwise it would introduce serious complications and entail hardship to those affected by it and this Bill has departed from that general principles. I have to express my disagreement with this also.

In fine I feel that the present Bill is unnecessary as adjustments (for good or bad) have already been made by the landowners more or less on the lines intended by its sponsors. If it is passed into law, strained relations between landowners and tenants, brought about by interested persons, will become worse resulting in costly and ruinous litigation. It has already affected badly the agricultural economy of the Tamilnad and if persisted in it will cut at the very root of the cultural values and time honoured traditions of the people.

Fort St. George, Madras,
16th August 1961.

P. T. Rajan,
Member, Legislative Council.

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(6)

I regret I have to express my dissent to the main principles of the Bill and the important provisions implementing those principles.

The Bill itself imposing a ceiling on the ownership of land is opposed to the fundamental rights of property guaranteed to the citizens under the Constitution and is thus invalid. Article 31 (2) clearly states that no property shall be compulsorily acquired or requisitioned save for a public purpose, and save by authority of a law which provides for compensation for the property so acquired. The preamble to the Bill is evidently put in for the purpose of satisfying the requirements of Article 31 (2), namely, ' a public purpose '. The object of the Bill is stated to be to remove the great disparity in the ownership of agricultural land and to distribute the surplus land so acquired to the landless and other persons among the rural population. A reference is made to Article 39 containing a direction as regards State Policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good. The directive principles of State policy enunciated in Part IV of the Constitution are not enforceable by the courts and the implementation of such directive principles can only be made without offending the fundamental rights guaranteed to the citizen in Part III of the Constitution. ' A public purpose ' mentioned in Article 31 (2) contemplates only a

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concrete and definite purpose and excludes a general objective or the implementation of any ideology, political or economic. The Madras High Court in its judgment in the case M. B. Namazi *v.* Deputy Custodian of Evacuee Property (A.I.R. 1951—Madras page 930) has laid down that mere State policy would not amount to a public purpose. The judgment therein relies on the previous judgment of the Bihar High Court in Sir Kameswar Singh *v.* Government of Bihar (29 Patna 790).

Expropriation of property for the vague and indefinite purpose of benefiting some tenants or other landless persons cannot be called—a public purpose—within the meaning of Article 31 (2). The Bill is intended only to transfer property from one class of people to another class of people and cannot at all be called ' a public purpose '.

It is not correct to say, as the Preamble does, that there is great disparity in the ownership of agricultural land. The statistics furnished by the Government Department itself clearly proves that there is no such disparity. Hence there is no justification for the introduction of the Bill at all.

According to clause 5 the ceiling fixed is 30 standard acres. There has been no attempt made up till now to find out the extent of ' economic holding ' in our State and also the amount of income that will be derived from every acre of land and the amount is necessary for the maintenance of an agricultural family. As an arbitrary estimate 30 standard acres have been fixed. This is wholely insufficient for a decent agricultural family.

The Bill also offends Article 14 of the Constitution as it selects only agricultural land for the imposition of ceiling while there is no imposition of any ceiling in respect of income of other classes of citizens, where there are more pronounced and glaring inequalities than in agricultural income.

The reading of the provisions of the whole Bill will show that the Bill, in effect, has proceeded on the view that all agricultural property vests in the State and the only question is how much agricultural land has to be allotted for an individual or family and how much compensation the State can afford to pay to the person who has been deprived of his property.

In order to fix the standard acre the assessment of the land has been taken into consideration but not the net income from the land. This is also not correct. In the definition of standard acre, section 2, clause (42), one acre assessed to land revenue at the rate of Rs. 10 and above has been taken as the measure. In respect of lands with less assessments the proportion has been calculated. On the other hand, it is just and proper to take one acre of wet land assessed to land revenue of Rs. 20 and above as the measure and to fix the proportion thus:

One acre of wet land of assessment Rs. 20 and above or $1\frac{1}{4}$ acres of wet land of assessment Rs. 15 to Rs. 20 or $1\frac{1}{2}$ acres of wet land of assessment Rs. 10 to Rs. 15 or $1\frac{3}{4}$ acres of wet land of assessment Rs. 5 to Rs. 10 or 2 acres of wet land of assessment below Rs. 5 Especially in Thanjavur and Tiruchirappalli districts this will do Justice to the persons hit by the Bill.

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Article 31 of the Constitution also imposes a condition that the law enabling compulsory acquisition of property should also specify the principles on which the compensation should be given. Article 31 of the Constitution provides no doubt that the inadequacy of the compensation cannot be called in question in a court of law. But it stands to reason that the court can go into the question whether principles of compensation are fair or just. If private property is acquired for 'a public purpose' the Land Acquisition Act which has been in the statute book for nearly a century now has clearly provided that the market value of the land on the date of the acquisition will be the proper compensation. But this Bill departs from that principle and provides a different principle of compensation in clause 50 read with section 3, namely, a multiple of the net annual income from the land. Here also the multiple varies according to the income and the higher the income the multiple is less. Both these principles of compensation are grossly unfair and unjust. The greater the income the greater should be the compensation to be given to the person who is deprived of his property. Further, no difference is made as regards the calculation of the net income from lands enjoyed by personal cultivation and the lands given to the tenants for cultivation. The note circulated by the Government of India to our Government contains the remarks of the Government of India and it is clearly stated there that the "rates of compensation payable for the surplus lands which are under personal cultivation should be higher than the rates of compensation payable to the lands under cultivating tenants". But the Bill however has not accepted that principle. It should be accepted on all hands that the market value, especially, in the case of agricultural lands will be the most proper and adequate compensation for the person who will be deprived of his property which in many cases he would have been enjoying for a number of years. The market value of agricultural land is easily ascertainable and is not usually fluctuating and is generally based on sound economic considerations only, whereas the fair rent is only a rough estimate and the multiple of the fair rent also will be an inadequate compensation. Further in the Land Acquisition Act a solatium is also provided for the person who is deprived of his property. There is always a strong sentiment associated with the ownership of ancestral agricultural property in our country. The solatium in the Land Acquisition Act was until recently 15 per cent of the market value. Even the compensation, as one would expect, is not to be paid in cash immediately but sometime later either in cash or bonds in the manner that may be prescribed.

One would have expected that the Bill imposing a ceiling and depriving a person of his property over and above the ceiling would at least do him the justice of allowing him to be the absolute owner of the property within the ceiling limit. But the Bill has not done even that. All the fetters imposed by the tenancy laws have been put on him and the niggardly provision as regards the resumption of land by the owner for personal cultivation, up to 3 acres has been made as a matter of commiseration.

It is generally accepted that agriculture needs capital and skill for its efficient operation. For machanisation of agriculture, there should be a large extent of holding. Instead, the Bill will accelerate the fragmentation of holdings and agricultural property would be further subdivided on account of the laws of inheritance and succession. Mere distribution of land to the landless will not help agricultural

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production at all unless sufficient capital is provided to the agricultrist to whom the land is given. On the other hand, what we find is that in districts like Coimbatore, most of the well-to-do farmers are also industrialists. They not only invest their saving from industries, in agriculture, but also apply the technique of industry in their farms which are run on commercial lines (vide statement made by Mr. M. S. Randhawa, Vice-President, Council of Agricultural Research and Additional Secretary to the Government of India). All this is due to the advantage of capitalists being also farmers. I am sure this Bill will make it impossible for well-to-do people to invest money in agriculture.

The sponsors of the Bill themselves feel that the imposition of ceiling is harmful in the case of sugarcane cultivation to supply the sugar industry and will not be necessary in the case of an Agricultural Company.

It has been provided that the provisions of the Bill come into effect from 6th April 1960 and that date is the date of the commencement of the Act. Ordinarily the principles of all legislation affecting rights to property is that it should not have any retrospective effect, as otherwise it would introduce serious complications and entail hardship to those affected by it that this Bill has departed from that general principles. I have to express my disagreement with this also.

I regret I have to say that the present Bill is wholely unnecessary and disastrous in its effects on the otherwise stable agricultural economy and will further throw the entire agricultural machinery out of gear.

If the Bill is passed into law, the landowners and tenants will be engaged most of their time in applications to the authorised officers and in appeals and revision to the higher authorities from his orders and not much energy will be left for agricultural operations. The Bill, I am sorry to say, is **a retrograde** measure and I am opposed to it.

MYLAPORE, K. BALASUBRAMANIA AIYAR,

14th August 1961. *Member, Legislative Council.*

(7)

The avowed objects of the Bill as proclaimed in the Preamble are:—

(i) to secure that ownership and control of the material resources of the community are so distributed as best to subserve the common good and that the operation of the ECONOMIC SYSTEM DOES NOT RESULT IN THE CONCENTRATION OF WEALTH AND MEANS OF PRODUCTION TO THE COMMON DETRIMENT;

(ii) to reduce great disparity in the ownership of agricultural land and prevention of concentration of lands in the hands of the landlords;

(iii) to acquire agricultural lands in excess of the ceiling area in order to distribute such lands to the landless and other persons among the rural population as such distribution will best subserve the common good, increased production and promote justice, **social and economic.**

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Such being the main and laudable objects of the Bill, it is a matter for deep disappointment that the provisions of the Bill as it has now emerged from the Joint Select Committee, will not lead to realisation and fulfilment of the objects.

In the state of things as it is developed, it is hardly likely that there will be any land available for acquisition and distribution to the landless.

The evidence tendered before the Joint Select Committee—and it has been specifically elicited by me from the landlords and representatives of land-holders' Association throughout the State—clearly discloses that by clever and calculated partitions or by otherwise after the survey by Government and in anticipation of the Bill, the lands held by individuals have already been reduced below the ceiling level. It is therefore clear that there will be no land left for acquisition from private persons for purpose of distribution to the landless.

As regards the land held by trusts, etc., clause 2 completely exempts all the lands held by religious trusts, clause 13 excludes certain classes of lands, such as lands used for dairy farms, sugar factories, etc., and clause 70, among other things, exempts, the lands held by charitable or educational institutions, any trust, any University, etc. The inference therefore is inescapable that the Joint Select Committee has contrived to see that there is no land left for acquisition by the Government for purpose of distribution to the landless.

The above and other provisions contained in the Bill leads to the irresistible conclusion that the main and laudable object of acquisition of lands for purpose of distribution to the landless with a view to secure increased agricultural production, promotion of justice, social and economic and reduction in the great disparity in the ownership of land stand defeated.

Further, there are certain other provisions now made in the Bill in regard to resumption for personal cultivation which will lead to very explosive and disastrous situation detrimental to the landless poor. It must be mentioned that the hopes instilled in the minds of the landless by the Government are sabotaged by the provisions of the Bill and the extinction of the tenants as a class is perpetuated in the Bill. It must be mentioned in this context that the Tenants Protection Act and the Fair Rent Act are the two Boons the Government have conferred on the tenants. These have enabled the tenants to sustain themselves and plan for the future and make improvements to the land and increase the production. But the provisions now inserted in the Bill in regard to resumption for personal cultivation will lead to wholesale eviction and deprive the tenants of the protection and the benefits already conferred by the above Acts. In the Bill as introduced, resumption for personal cultivation was not permissible in the case of persons assessed to Sales Tax, Profession Tax and Income-Tax. This provision was included in the Bill with a view to secure that the persons who do not take to cultivation as their main livelihood could not be permitted to compete with those who solely depend on their lands. But now the Joint Select Committee has removed the two disqualifications as regards the assessment to Sales Tax and Profession Tax and has retained assessment

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of Income-tax as the only prohibition. This can only mean that a merchant, salaried person in a village and all except big officers and moneyed men can take to cultivation as a secondary means of livelihood and deprive the tenants of their primary means of livelihood.

The landlords have already divided their lands among the members of their family so as to be below the ceiling area. Such being the position, the provisions in regard to resumption for personal cultivation will enable each divided member of the family to resume lands now in the possession of the tenants, subject however to the limited restrictions laid down. This, in fact, will lead to large scale eviction of tenants. The Bill has not only taken away the protection already given to the tenants, but has conferred more rights on the owners. The tenants thus evicted will have no land to cultivate nor will they be taken as agricultural labourers in view of the erstwhile relationship. This will create a large army of unemployed tenants. Thus the whole economy of the village will be dislocated and stand tilted in favour of the owners. In the Tenants Protection Act and the Fair Rent Act, there is a provision that resumption shall not be permissible in cases where the tenants by mutual agreement give the owner his share at old rates. Even this safeguard is now denied.

To cite one instance by way of illustration, there are hundreds of tenants in each village in the Tirunelveli district who hold each one or two acres of lands. These will now be thrown out at a moment's notice and the jathas of displaced landless tenants will be on the march everywhere. This will be a source of menace to the society.

The same officials who gave protection to the tenants in view of the provision contained in the Tenants Protection Act, will now be compelled to give protection to landholders who seek to evict the tenants. If at least, as pleaded by Sri C. Subramaniam, Minister for Finance before the Joint Select Committee, a provision is made that at least one acre of land shall be left in the possession of the tenant in case where land is sought to be resumed for purpose of personal cultivation, the tenant will have some land for cultivation. But it is painful to note that even this minimum protection is not given in the Bill as it now stands.

As regards lands held by mutts which are really dry lands and are used as house-sites, it is common knowledge that the authorities of mutts callously resort to large-scale eviction by questionable methods. The tenants are denied even the elementary needs such as roads, etcetera. It is said that a separate Bill in this regard will be brought forward. In this connection, it is well to point out that in 1948 at the time of the enactment of the Zamindari and Inams Abolition Act, exemptions were granted in respect of 1937 Inams and when agitation was made, it was stated that a separate Legislation would be brought forward in regard to 1937 Inams. But the promised legislation did not see the light of day and public men were exposed to volley of criticism and condemnation. It is argued that in other States also, lands held by mutts are exempted from the Ceiling Act. It is evidently forgotten that in those States, the lands held by temples and mutts are not as large as lands held by mutts in our State. In the light of the past experience with regard to 1937 Inam Lands, I cannot but entertain an apprehension that the present promise that a separate Bill in regard to lands held by mutts and temples will be soon enacted, may suffer the same fate. It is my experience that the suppression of

tenants of the lands owned by mutts (in the name of God!) is more atrocious than the suppression of tenants of the lands held by individual owners. Therefore, the legislation in regard to these lands must have been conceived and formulated long ago.

I, therefore, submit with all humility, that the sincerity of the purpose of the Planning Commission and the sincerity and earnestness of the State Government in this regard may stand sabotaged, if the Bill is passed as it has now emerged from the Joint Select Committee. I appeal to the Government, whose sincerity and earnestness to afford protection to tenants, is unimpeachable and to the Members of the Legislature who are representatives of the tenants, to modify the provisions of the Bill and redeem their pledge to place on the Statute Book an all comprehensive and all pervasive Act which will ensure—

(1) The tenants of the lands held by trusts will get permanent right of occupancy by the formation of Tenants' Co-operatives and ensure 60 per cent for the tenants and 40 per cent for the trusts;

(2) more restrictions on the resumption for personal cultivation so that protection already granted by the Acts in force are not taken away and eviction for personal cultivation are subjected to severe safeguards in favour of the tenants;

(3) assessment to Sales Tax and Profession Tax must be made as disqualifications for resumption of land for personal cultivation.

I am of the firm view that the contemplated Bill to give protection to the tenants of lands held by mutts and temples, particularly in the case of house-sites on agricultural lands shall be enacted simultaneously so as to avoid invidious distinction between the two classes of tenants.

In my opinion, the Bill as it now stands will not only fail to fulfil the hopes entertained by the tenants, but will also reduce the rights already conferred on them. Needless to say, the Bill militates against the very objects with which the Government have initiated Land Reforms and is likely to create more social and economic inequalities.

I cannot but conclude this note of dissent with deep regret that the various suggestions contained in my note addressed to the Chairman of the Joint Select Committee while I was on tour abroad, do not appear to have been considered or having been considered did not find favour of acceptance.

MADRAS,
16*th August* 1961.

K. T. KOSALRAM,
Member, Legislative Council